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# The equality implications of being a migrant in Britain

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Middlesex University

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## Executive summary

Researching the equality implications of being a migrant in Britain is hampered by imprecise definitions of what a migrant is and by a lack of data on many equality groups (groups which share a common attribute in respect of age, disability, gender, race, religion or belief, or sexual orientation, as defined by the Equality Act 2006). The literature and evidence on inequalities tends to be more abundant on gender and race but remains focused on ethnic minority categories rather than on migrants as such.

While the foreign-born population in the UK has increased from four to six million over the last decade, people arrive via different routes and with varying intentions. Much recent debate on the benefits and pressures resulting from immigration has been provoked by the large numbers of arrivals from Eastern Europe since 2004, but they, like other migrants from the European Union (EU), have freedom of movement guaranteed by EU Directives. Although they have to register or obtain authorisation to work legally (and 766,000 had registered by the end of 2007), there are few reliable statistics on their presence in specific areas or in the UK as a whole. Other migrants from outside the EU also come to the UK to work (about 200,000 in 2006) or study (309,000 in 2006). A number of migrants, estimated at between 310,000 and 570,000, are believed to be living in the country without formal immigration authorisation. In 2007, the largest group of those born abroad was from India (553,300), followed by those from Poland (423,300). There are significant differences in terms of gender and age between different national groups, comprising recent and established migrants, and in their experiences of employment and access to services. This heterogeneity makes policymaking based on averages or an assumed homogeneity meaningless or even dangerous.

We set out in this report to examine the equality implications of being a migrant in the UK so as to:

- (a) Assess the equality and human rights implications of managed migration, in particular the points-based system (PBS).
- (b) Determine the availability of statistical data on migrants to measure and evaluate inequalities and discrimination by age, disability, gender, race, religion and sexual orientation.
- (c) Outline who are the new migrants by nationality, gender and socio-economic characteristics.
- (d) Consider the economic impact overall and in particular sectors.
- (e) Review access to and use of services, and whether migrants experience barriers or discrimination in service delivery.

## **Migration policies, equality and citizenship**

Since 2000, the Government has sponsored an approach to managed migration which has been developed as a PBS for those coming to work and study from outside the EU. There has been little adequate Equality Impact Assessment undertaken by the Home Office or UK Border Agency (UKBA) of the different tiers 1, 2 and 5 of that system (relating to highly skilled, skilled, and temporary workers and youth mobility) in respect of equality groups. There is also a lack of rigorous criteria or analysis of available data, whether in relation to each form of inequality or their interaction. Furthermore, UKBA has not taken into account the impact of post-immigration discrimination in the labour market, or of gendered and ethnic employment patterns, which also have consequences for the extension of the right to remain and eventually settle. In the impact assessment of tier 2, gender discrimination is acknowledged by UKBA but set aside as an aspect of discrimination in the UK workplace.

Other aspects of current immigration policies raise similar issues and also human rights concerns. Proposals on citizenship discriminate against work, asylum and family migrants, who will be required to learn English and ‘earn’ citizenship or permanent residence, unlike EU nationals. Like proposals to address concerns about large-scale migration by capping or setting quotas (which would not affect the majority of European migrants), these proposals are based on little or no research or statistical evidence, and have not been properly assessed in relation to equality impacts. As entry is linked more closely to rights of long-term residence and citizenship, the various forms of discrimination also need to be understood as a whole, rather than each stage being examined separately, as in the case of the impact assessments undertaken by UKBA.

## **Statistics**

Much research on inequality and discrimination continues to use an ethnic classification. In addition, many British statistical sources do not allow for the identification of migrants and their characteristics as a component of the total resident population. Some sources collect information on ethnicity, nationality or country of birth but these are not interchangeable and need to be used consistently. According to the Labour Force Survey (LFS) 2006, 43 per cent of residents born abroad are UK nationals. Census data shows that 58 per cent of people from ethnic minorities in the UK were born abroad. Other sources include immigration figures, such as applications for new National Insurance numbers, but these, too, have their limitations.

The following table sets out the availability of information on the various equality strands within existing data sources.

## Availability of statistics on equality groups

Source	Migrants		Equality Strands					
	Nationality	Country of birth	Race (ethnicity)	Gender	Age	Disability	Sexual orientation	Religion or belief
Census	no	yes	yes	yes	yes	yes	no	yes
LFS	yes	yes	yes	yes	yes	yes	no	no <sup>1</sup>
NINo	yes	no	no	yes	yes	yes <sup>2</sup>	no	no
WRS	yes	no	no	yes	yes	no	no	no
Work Permits	yes	no	no	yes	yes	no	no	no
House Survey	yes <sup>3</sup>	no	yes	yes	yes	yes	no	no
CORE	yes	no	yes	yes	yes	yes	no	no
IPS	yes	no	no	yes	yes	no	no	no

Notes:

(<sup>1</sup>) Only available for Christian denominations in Northern Ireland.

(<sup>2</sup>) People claiming Incapacity Benefit or Severe Disablement Allowance within six months of registration.

(<sup>3</sup>) Only English, Welsh, Scottish, Irish and Other.

Using the available data as proxies, and through disaggregations and cross-tabulations, it may be possible to triangulate different variables and sources to investigate the likelihood of migrants experiencing inequalities. The LFS is being improved in an attempt to gain a more accurate and up-to-date picture of migrant workers. There are also moves to collect more data to enable the proper monitoring of equalities in relation to migrants. At least one local authority, for example, is now monitoring housing applications for nationality. However, ethnicity can also be linked to discrimination, as may, for example, be the case for the Roma.

More data collection, however, raises concerns in terms of privacy, data protection and, more generally, the expansion of a surveillance state, with serious implications for the lives of individual migrants. The collection of good data about migrants will depend to a great extent on the degree of trust built up between migrants, the state and local authorities.

## Human rights, equalities and cohesion

The Equalities Review (Cabinet Office 2007) provided definitions of human rights and equalities which relate the two. Current practice in relation to race equality, however, is based on 'ethnic monitoring', which was shaped in the 1970s and 1980s, when most discrimination took place on the basis of perceived ethnicity and broad categories like White and Black could show it up. Now, discrimination, like the society in which it is taking place, has become much more diverse. Racial attacks on white migrants are reported almost every week. Employment tribunals are seeing an increasing number of cases of discrimination against migrants. Monitoring on the basis of nationality (which is already included in the legislative definition of 'racial grounds') is needed, but such monitoring must be seen to be separate from enquiries

made to establish eligibility for services, and especially from any investigation of immigration status which might target certain groups. The use of human rights legislation to tackle inequalities or disadvantage has become more common and many recent cases have been of relevance to and/or involved migrants, especially in relation to access to basic services like health and shelter. This may be of particular use for irregular migrants, who face restrictions on their access to some discrimination remedies.

Both popular and policy-oriented discussions about good relations, community cohesion and social capital need to recognise the part that migrants play within the communities where they live. Greater residential mobility and other factors are already linked to weakened social ties and a loss of social capital that is independent of recent migration patterns. In practice, many migrants are essential to cohesion and the development of social capital. Many of the services on which communities depend in order to meet, communicate and survive depend on migrant labour: transport, catering and hospitality, care and domestic work. The identification of the arrival of large numbers of migrants as the cause of a lack of cohesion in a neighbourhood, which then needs remedies such as informing and engaging migrants, may be a reversal of cause and effect. In practice, the largest numbers of new migrants are now from Eastern Europe, come into lower-paid work, and move to areas where a lack of cohesion has already created a relatively cheap rental market and access to poor-quality housing and work. The work they do, however, often makes a hidden or indirect contribution to community cohesion.

The way migrants are treated is key to – and reflects the extent of – integration and cohesion. Yet migrants often feel they are not considered as part of British society. The focus of debate needs to be changed: the wider social goals need to be set out, as does the action needed to achieve them. At present, the focus tends to be on reassuring the host community that it is being protected against migrants. There are, however, examples of good practice in integrating migrants. Migrants themselves need good access to language provision and information about services and rights, including rights under equality legislation.

## **Employment**

Migrants constituted 11.5 per cent of the working-age population of Great Britain in 2007 and thus make a major contribution to the economy. The employment of migrants does not, however, present an even picture; many national groups are clustered in certain occupations, with some evidence of segregation and concentration in low-wage and less skilled sectors, and in temporary work for the more recently arrived. For example, while 28 per cent of UK nationals are in the managerial and professional groups, only 21 per cent of Bangladeshis are, nine per

cent of Poles, 12 per cent of Portuguese and no Somalis. At the other end of the occupational scale, 28 per cent of UK nationals work in process, plant and machine-operating jobs or elementary occupations, compared to five per cent of Australians, 33 per cent of Bangladeshis, 56 per cent of Poles, 54 per cent of Portuguese and 52 per cent of Somalis. The fact that many highly skilled migrants are actually working in low-skilled occupations is of concern: it is likely that some of this reflects discrimination in the labour market.

There is considerable research evidence of migrants from the eight Eastern European countries which joined the EU in 2004 (the A8 accession countries) facing poor conditions, unfair treatment and workplace harassment. Exploitation may take the form of lower wages, payments in advance to secure jobs, and illegal or excessive deductions by gangmasters. Name-calling and racial harassment by supervisors and co-workers is common in some settings. Those employed by agencies, who are significant recruiters of labour in sectors such as cleaning, health, hospitality and manufacturing, may not even know who their employers are. Migrants are more likely to be working in sectors or occupations where there are existing health and safety concerns and their status as new workers may place them at added risk, due to limited knowledge of the UK health and safety system and to communication problems.

The labour market experiences of male and female migrants reflect traditional labour market divisions between the sexes. Women are more likely to be found in the caring sectors of employment and men in the 'heavy' or manual sectors. Women may accrue very different bundles of rights, have different settlement outcomes, and experience migration and settlement in different ways. The proportion of women and men entering through different routes varies and the valuation of skills embedded in each tier of the PBS also has gendered implications for stratified rights of employment and residence.

Undocumented and irregular migrants face particular discrimination. A London cleaner with documentation could expect to be paid £6–7.50 an hour, but cleaners working for employers who know their irregular status could expect to be paid as little as £2–£3.50 an hour. Furthermore, the civil penalty regime (introduced in February 2008) introduced fines of up to £10,000 for the employment of undocumented migrants. It thus places a responsibility on employers to require workers to produce documentation, at a time when there has also been a significant increase in workplace raids organised by UKBA enforcement officers. Some research indicates that these enforcement efforts focus disproportionately on black- and ethnic minority-run businesses, which reflects further discrimination. There is also evidence that both Department of Work and Pensions agencies and employers may be selecting

workers for document checks and other measures in a discriminatory way on the basis of names, nationality or appearance.

## **Housing**

Access to social housing is determined in law by eligibility (based on immigration status) and need (for example, homelessness, overcrowding), but may also be subject to discrimination. Statistics about tenure, rent levels and income are available from national housing surveys, but none of these include country of birth, date of arrival or nationality. There is a lot of anecdotal evidence that widespread discrimination occurs against A8 housing applicants, who are routinely turned away unless they have worked and been registered on the Worker Registration Scheme (WRS) for a year in the UK – even though (Department of) Communities and Local Government guidance tells local authorities firmly that they are eligible while working during this time. Between 2004 and 2007, 35 per cent of their applications to local authorities for homelessness assistance were accepted, compared with 47 per cent of all applications nationally.

Although new migrants are concentrated in the private rented sector, the percentages of new migrants, foreign-born and UK-born residents in social housing are quite similar at 11–18 per cent. However, these figures include refugees who are more likely to be eligible for social housing than work or family migrants from outside the EU. The courts have also found that homelessness law is not fully compatible with human rights legislation in relation to the prohibition of discrimination on the grounds of nationality.

Poverty and length of waiting time are also significant factors in determining who is housed in the social sector. A higher percentage of people born in Bangladesh, Jamaica, Afghanistan and Somalia live in social housing, as compared to those born in the UK, probably reflecting both eligibility (due to refugee status, long residence or citizenship) and poverty. Most other people born abroad have significantly higher percentages in the private rented sector. One study of new migrants found 44 per cent were sharing a room and a third of them had moved in the last eight months, although agricultural workers reported a higher level of satisfaction with their (more regulated) accommodation than others. There is anecdotal evidence that some housing associations refuse to accept people with time limits on their stay. As a result of a lack of access to accommodation and advice, together with discrimination, there is evidence that many migrant communities are living in very poor and overcrowded conditions.



## **Health**

In spite of a great deal of concern about different health needs and outcomes among migrants, there is very little data on migrants and health services. There is evidence about the difficulties migrants may have in accessing appropriate services, which may then lead to strains on services because of late or inappropriate access (such as the use of Accident & Emergency services instead of General Practitioners, or the late presentation of pregnant women to maternity services and hospitals). Many migrants to the UK are at no greater risk of infectious diseases than the UK-born population, and migrant workers are generally less likely to need a doctor than the general population, although this evens out as families begin to settle. The use of services by new migrants is influenced by a range of personal and organisational barriers, including difficulties with GP registration. There is a stratification of rights to health care in the UK, and many undocumented migrants and failed asylum seekers have to pay for all health services apart from those needed in an emergency or offered to facilitate infection control. They are also reluctant to use NHS services because they fear that health services may report them to immigration authorities. A recent judicial review, however, established that current Department of Health guidance that allowed hospitals to refuse all but immediately necessary treatment to some migrants unless payment was forthcoming was unlawful. Problems with access to health care among undocumented migrants (including rejected asylum seekers) are so great in London that an aid agency now runs a project in the East End, offering health advice, care and advocacy.

Trafficked migrants, including women who work in the sex industry, are particularly vulnerable to health risks given their dependence on the trafficker. The children of migrants have a higher stillbirth rate than those born to British mothers.

## **Care and social services**

The law excludes those subject to immigration control, and whose need arises solely from destitution from receiving community care services. However, care must be provided to avoid a breach of human rights and many local authorities now have to fund such services, for instance for specific groups such as women fleeing domestic violence. There is some research on take-up of community care by ethnic minorities but none by nationality. Most migrant populations have lower disability rates than UK nationals and may therefore require fewer community care services, but this is closely linked to the age distribution in the different groups. Among the over-45s in some migrant groups (Bangladeshis, Portuguese, Indians, Somalis and Irish), the disability rates are substantially higher than among UK-born citizens.

Immigration law discriminates against non-European migrants and UK nationals who face restrictions on their right to care for their elderly dependants in the UK or to bring their children to join them, and excludes them from the benefits system when they

arrive. The increasing move towards means-tested benefits to subsidise childcare leaves migrant women workers at a disadvantage, and they also face difficulties in finding appropriate childcare. Child protection services need to consider effective ways of protecting migrant children that take into account the considerable constraints faced by their parents, and may also need to develop resources such as childcare specifically for them.

### **Education**

Lack of English language skills severely hampers educational attainment and, therefore, training and job prospects. Nevertheless, English for Speakers of Other Languages (ESOL) provision is not uniform and varies in quality. New rules on access to free ESOL classes were initially challenged because of their possible impact on race equality and have now been revised, but still leave other possible discriminatory impacts. In particular, carers and women with children need more flexible provision, and there is no provision for people with sensory impairments. With English now a requirement for settlement and citizenship, this has a knock-on additional discriminatory effect.

There is extensive evidence of the difficulties in getting many foreign qualifications recognised in the UK. This can be both a cause of disadvantage and a way in which discrimination takes place. The arrival of migrant children by no means necessarily involves a lowering of standards of achievement in schools. Some children of migrants perform significantly above the English average. However, first-generation migrant children in the UK are 25 per cent more likely to be bullied at secondary school than non-migrant children.

### **Law, legal advice, criminal justice and prisons**

Migrants are disproportionately adversely affected by recent changes to legal aid provision. Although the arrival of large numbers of new migrants into some areas has put strains on local police forces, there is no evidence that it has led to an increase in crime. Police are seeing a significant increase in new immigrants as the victims of crime. There are also crimes of which only migrants can be victims such as trafficking, some types of exploitation and the provision of unregulated immigration advice

Foreign national prisoners nonetheless make up 14 per cent of the overall prison population and one in five women in prison is a foreign national. Migrant prisoners (and other migrant criminals) are subject to penalties and sanctions which do not affect non-migrants, including mandatory deportation and loss of residence. Migrants may be held in Immigration Removal Centres which have no developed welfare or probation structure, no preparation for release (even though about 30 per cent are

released into the community within the UK) and limited arrangements for family and other contact. There is no structure of parole or time off for good behaviour, limited or no access to any paid work, restrictions on education provision and no limits to the period for which they are held except via a limited bail system.

### **Income, benefits and financial exclusion**

The earnings of migrants from poorer countries are substantially lower than the average UK ones, in spite of qualification levels which are often above the average. The majority of foreign-born groups have lower income support take-up rates than the UK-born and the proportion of foreign-born people who claim unemployment benefits is also very low. Low-paid migrants from outside Europe have been significantly adversely affected by moves away from lower tax rates to tax credit benefits because many may not be entitled to them. This bar also affects those who become unable to work due to long-term illness or disability. Migrants from A8 countries have restricted access to some benefits until they have worked for a year following registration on the WRS.

Financial exclusion may be a problem. Opening a bank account without a permanent address, regular income or credit history is difficult and, although most regular migrants have a passport for personal identification, many do not have proof of permanent address. Where migrants seek to circumvent complex regulations, they may end up making payments to use the accounts of 'friends'.

### **Harassment and violence**

There is mounting evidence of racial harassment against new migrants in general and against Eastern Europeans in particular. Migrants and others experiencing hostility often blame the media for it, while the public often does not distinguish between refugees, asylum seekers and migrant workers. There is no specific research on racial harassment against migrants, and the British Crime Survey reports on adult victims of crime and adult fears of violent crime only by ethnicity. However, local studies offer some evidence of harassment. In south Lincolnshire, 37 per cent of respondents to a migrant survey reported experiences of discrimination and harassment; the harassment being from British people in shops, bars and cafés, or in the street. Among staff in Chinese catering establishments, 31 per cent had experienced physical attacks, 56 per cent racial abuse and 58 cent had problems with employers refusing to pay them what they were owed.

A focus of considerable campaigning, and source of particular problems for migrants, is domestic violence. Migrants experiencing domestic violence need to deal with a number of interlinked issues that are not a problem for non-migrants in the same situation, specifically in relation to their immigration status and inability to access public funds, such as housing and other benefits. While there are specific provisions

for those escaping violence in immigration and EU rules, these offer help only to people with some types of status and are quite limited.

## **Conclusion**

This report highlights a range of problematic areas. These include the implications of the diversity and complexity of immigration flows for the development of immigration, civic integration and citizenship policies, the critical and effective evaluation of the impact of such policies for different categories of migrants, and the need to develop appropriate data for understanding migration flows beyond ethnic minority categories, so as to foster good community relations and planning of services as well as to measure and tackle discrimination. The report also examines the application of human rights, equality and anti-discrimination legislation covering the various equality groups, as well as migration policies, community relations, employment and access to a range of services. It concludes that many Government policies and approaches to immigration and citizenship fail to take into account their equality implications, and that even where some impact assessment is made, it is often partial or fails to look at the effects on some equality groups.

Specific recommendations to tackle discrimination and human rights issues include:

- The need to use the statistical evidence that is increasingly available to conduct proper Equality Impact Assessments of all immigration-related policies and proposals, using disaggregated data. This should include consideration of the needs of women, both as people discriminated against in the labour market and as mothers.
- Further investigation into discrimination against migrants in the labour market, including the imminent effects of the personalisation of care via individual budgets and the possible exploitation to which this might lead.
- Further consideration and the need for action about the situation of irregular migrants, who are particularly vulnerable to exploitation, and who face extra difficulties in obtaining any form of redress.
- Ensuring that new guidance on access to health care fully encompasses the need to provide a non-discriminatory service and one that is consistent with human rights and the incorporation of the needs of migrants into discussions about appropriate social and child care provision and child protection
- A review of the discriminatory effects of the lack of appropriate ESOL provision (especially on women with children, disabled and older people, and others excluded from the labour market) and the consequent damage to community cohesion.
- Proper monitoring of migrants as victims of crime and a review of the effects of legal aid reforms on migrants, with a particular focus on the equality groups.

- The inclusion of questions that can identify migrants in relevant national surveys such as the General Household Survey, in order to lay a baseline against which future changes can be measured (for example, in relation to financial exclusion).
- Ensuring new migrants know about discrimination law, understand how to recognise discrimination and learn how to enforce their rights, possibly starting with welcome packs that include such information.
- Attention to the treatment of foreign national prisoners and immigration detainees: this currently raises many human rights concerns and some related to discrimination and community cohesion.



## Introduction

This report examines the equality implications of being a migrant in Britain. Its aims are to:

- (a) Assess the equality and human rights implications of managed migration, in particular the points-based system (PBS).
- (b) Determine the availability of statistical data on migrants to measure and evaluate inequalities and discrimination by age, disability, gender, race, religion and sexual orientation.
- (c) Outline who are the new migrants by nationality, gender and socio-economic characteristics.
- (d) Consider the economic impact overall and in particular sectors.
- (e) Review access to and use of services, and whether migrants experience barriers or discrimination in service delivery.

Recent research has focused on migrants from the eight Eastern European accession (A8) countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) and on difficulties of access, inequalities and discrimination in relation to a number of key sectors (such as employment, education and training, health and housing). There is, however, much less research on other groups of migrants from the old EU and non-EU countries entering through labour and family routes. This is possibly based on the assumption that they encounter relatively few problems. Research has also examined knowledge of rights and availability of services, including immigration and welfare advice. Furthermore, there has been virtually no systematic analysis of the areas covered by the Equality and Human Rights Commission (race, gender, age, disability, religion and belief, and sexual orientation) in relation to the experiences of new migrants. Bringing these dimensions together may offer the potential to look at the intersection between different forms of inequalities.

The report firstly outlines the different flows of recent immigration and discusses how we find out about them through available statistical sources. It examines the equality and human rights implications of managed migration and the PBS, in particular highly skilled workers (tier 1), skilled workers (tier 2), and youth mobility and temporary workers (tier 5). It also considers the implications of proposed measures for citizenship in the light of evidence on current immigration trends.

The report then looks at the available statistical evidence and the issues arising from the coverage and gaps. The report also deals with the specific problem of how the term migrant can be usefully defined, and how much can be found out about

migrants from the statistics and administrative records generally available. It thus attempts to disentangle the information available on ethnic minorities from that on migrants. This depends on disaggregating commonly used information about ethnic minorities – a category that often includes a significant number of migrants, some quite recently arrived (for example, through family formation) and others simply born abroad – and combining it with other data available. Where possible, information on more recent migrants (those who arrived after 2000) has been included, as this includes data from the 2001 Census and also covers many who may subsequently have applied for indefinite leave, permanent residence or citizenship. Where data on ethnic minorities clearly refers to migrants, it has been used.

Two chapters review the equality areas that fall under the Commission's remit, with a focus on issues of particular interest or concern to migrants. The report then looks at key sectors that influence the lives of migrants: employment; housing; health; care and social services; education; law, legal advice, criminal justice and prisons; income, benefits and financial exclusion; racial harassment and violence. For each of these, the six equality strands have been looked at, although there tends to be more information (if any exists) about race than about the other strands.

Finally, the report draws together the conclusions with some recommendations. Because there is very uneven coverage in terms of research and statistical data, some chapters are much more detailed than others, and conclusions point out the gaps and needs for possible further research.

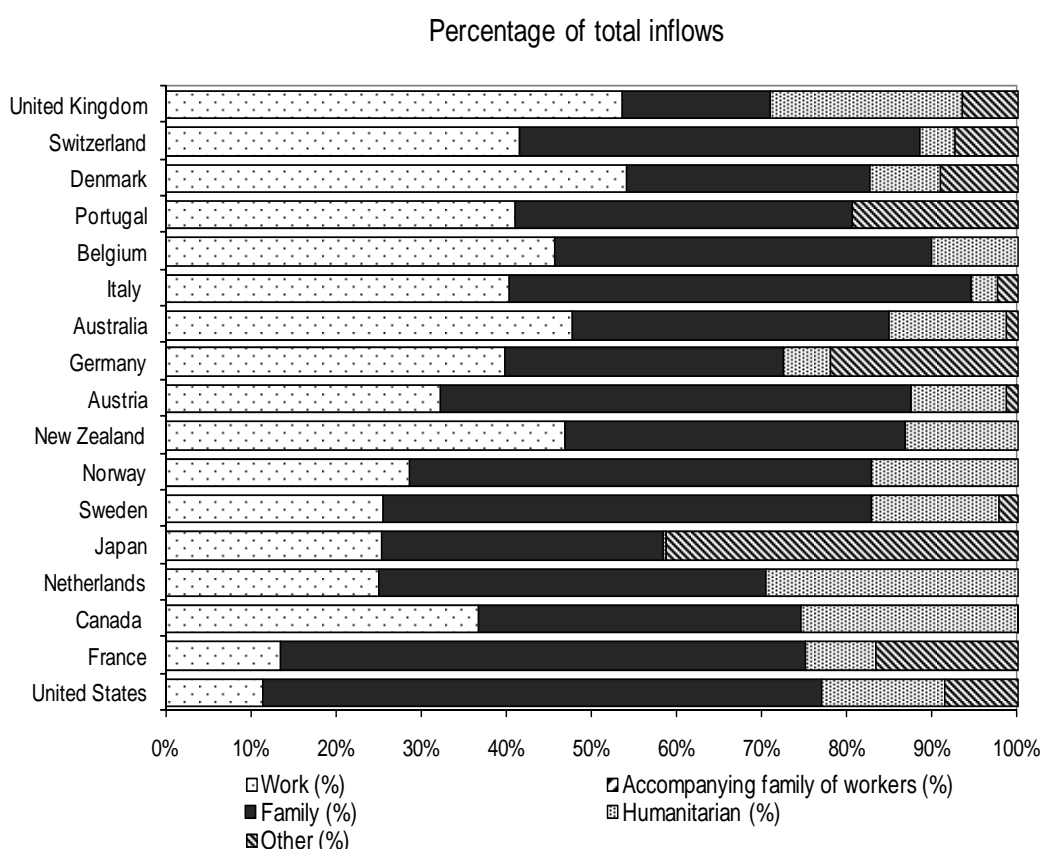
This report is written at a time of rapid change in the field: proposals to improve data collection on migrants for planning purposes are being developed; a (frequently ill-informed) public debate advances in fits and starts; new policies on immigration, integration and citizenship are being formulated and implemented; a new equality agenda is being applied to these fields, and academic research projects are underway and reporting.



# 1 Recent immigration into Britain

Migrants come to the UK for many different reasons: to work, marry, join family members, study, broaden their horizons and experience new cultures, and seek asylum. Compared with other European countries, the UK has a wide variety of types of migration (see Figure 1.1). In part this may be because certain channels of entry such as official labour migration are closed or severely restricted in other countries. France, for example, receives far fewer labour migrants; its immigration is heavily weighted towards family migration. A similar pattern prevails in Sweden. The UK's pattern of immigration, especially since the introduction of managed migration and opening up of labour migration, has come to resemble a number of traditional settler societies, such as Australia, Canada and New Zealand, which receive large numbers of skilled-labour migrants, accompanying family members and family dependants of established migrants. The UK also receives large numbers of students, some of whom prolong their stay beyond their studies.

**Figure 1.1 International migration by category of entry, selected OECD countries, 2005, standardised data**



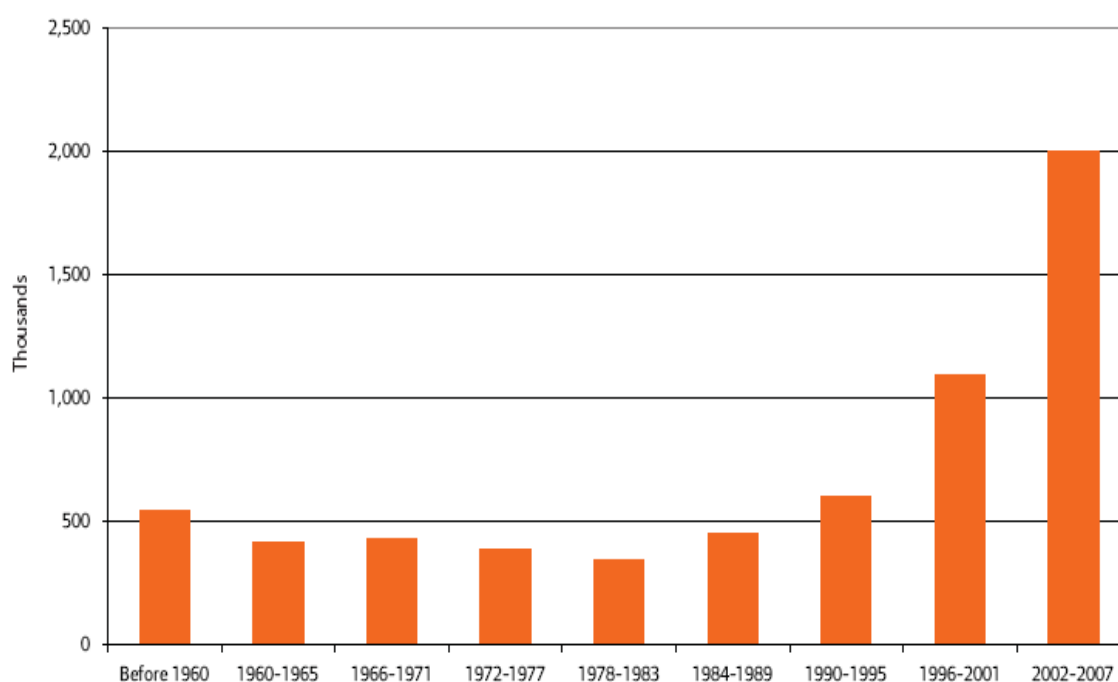
Source: Organisation for Economic Co-operation and Development (OECD), 2007, p 37.

Each of these types of flows exhibits different patterns of nationalities and gives rise to different gender ratios. Labour migrations, especially skilled flows, tend to have

higher male ratios. By contrast, family migration is dominated by females, though in recent years this dominance has declined as women have increasingly brought in male spouses and accompanying family members. This also means that the gender ratio from different countries varies.

Temporary and long-term migrants have contributed to the overall increase in the foreign-born population, which has risen from about four million to over six million in the last decade. Migrants come from a growing range of countries: 28 per cent from all 25 member states of the European Union (EU), 40 per cent from the New Commonwealth, six per cent from the Old Commonwealth and 26 per cent from other countries (Salt, 2007). Figure 1.2 shows a substantial increase in the numbers who have arrived since the second half of the 1990s and are currently living in the UK, compared with earlier arrivals.

**Figure 1.2 Foreign-born population in the UK in 2007, by period of arrival**



Source: Labour Force Survey (LFS), 2007, Q2.

Migrants themselves have different views of how long they intend to remain. Many have settled and taken out citizenship. However, some use the UK as a stage on their way towards another country that is seen to have better prospects, such as the United States. Others, such as those from Eastern Europe or working holiday-makers from Commonwealth countries, mainly come for a shorter period to earn money and return home. They may be uncertain of their intentions at the time of arrival and some may change their views during the course of their stay.

### 1.1 Routes of entry for the 'new migrants'

In general, **labour migration** increased steadily from the mid-1990s. Channels for entry were simplified and work permits extended for longer periods, so that skilled workers could accumulate enough years to apply for indefinite leave to remain (ILR) and citizenship. Thus, even before the change in policy announced by the then immigration minister Barbara Roche on 11 September 2000, there had been a significant increase in work permits granted. Between 1996 and 2000, the percentage of women granted work permits had also risen significantly from 22 per cent to 34 per cent, due in part to shortages in the education and health sectors.

The sector-based schemes for less skilled work in food processing and hospitality also brought in workers largely from Eastern Europe, the former Soviet Union and some Asian countries (Bangladesh, Philippines and Thailand). The numbers were capped and the scheme was radically trimmed down following the European Union (EU) enlargement in May 2004, and then restricted to Bulgarian and Romanian nationals in January 2007. The hospitality sector-based scheme has been the most severely pruned, though there are still large numbers in food processing. Large numbers of accession country nationals now supply labour in factories, warehouses, kitchen and catering, care, construction, and agriculture (Border & Immigration Agency (BIA) et al, 2008). (The A8 accession countries, which joined the EU in 2004, are the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. The A2 countries, which joined in 2007, are Bulgaria and Romania.)

Between May 2004 and September 2008, 932,000 people had registered initial applications (895,000 approved) on the **Worker Registration Scheme (WRS)** (UK Border Agency (UKBA) et al, 2008). The self-employed do not have to register on the scheme to work in Britain, while it is estimated that about 20 to 45 per cent of those who should have registered have not (Centre for Research on Nationalism, Ethnicity and Multiculturalism (CRONEM), 2007). This population is generally young (82 per cent aged 18–34 years). Though most arrive without dependants, the number of migrants with dependants has been increasing (from 5.2 per cent in 2005 to 9.5 per cent in 2007). Some bring in dependants (spouses, children and wider family) after they have found employment and a place to live (Blake Stevenson, 2007; Ryan et al, 2007). This group will have considerable implications for service delivery, such as maternity services and school enrolments. For example, Polish is the most common first language spoken among non-English speaking, newly arrived migrant school children (Pollard et al, 2008).

The numbers registering in 2008 were decreasing rapidly – 37,760 in the third quarter compared to 59,150 in the same quarter in 2007 (UKBA et al, 2008). This trend is likely to continue as the three countries sending the largest number of

migrants – Poland (66 per cent for the period), Lithuania and Slovakia – see an improvement in their economies and lower rates of unemployment. The declining value of the pound against their currencies and the alternatives now available in other EU countries, which have either opened up or eased their conditions of entry since May 2006, will also play a part. It is estimated that about half of the arrivals between 2004 and 2007 have returned home (Pollard et al, 2008).

However, as immigration from Central and Eastern Europe remained buoyant at the time of the entry of Bulgaria and Romania into the EU, the Government decided to restrict access to the labour market for these two nationalities, though both may apply for work permits for skilled workers and arrive as highly skilled or self-employed migrants. In addition, there is a quota of 16,250 per annum for temporary seasonal agricultural work. In the fourth quarter of 2007, 4,990 registration certificates were issued to Bulgarians and Romanians exercising Treaty rights (as self-employed or highly skilled migrants) and 860 accession cards were issued for skilled or other work. Overall, 7,521 new National Insurance numbers were allocated to all categories of Bulgarians and Romanians in 2007.

One of the major issues, especially for local authorities seeking to provide services, is to know how many migrants there are at a particular time and in a particular place (Convention of Scottish Local Authorities, 2008; Institute of Community Cohesion/Local Government Association 2007; Welsh Local Government Association, 2007). Intentions about length of stay are notoriously unreliable and variable and are likely to depend on the location of the survey. For example, one study showed 31 per cent of migrants intended to stay for less than two years, 13 per cent between two and five years, about the same percentage over five years but not permanently, and 15 per cent intended staying permanently (CRONEM, 2007). A study by Blake Stevenson in Glasgow in 2007 found that just over a third intended staying more than five years but that 38 per cent did not know how long they would stay. Especially in rural areas with more seasonal employment, many may wish to remain in the UK but move elsewhere (Zaronaite and Tirzite, 2007). The Polish Federation (in 2007) estimated that about 20 per cent were settling. We do have evidence of increasing long-term residence, even if not permanent settlement, since 2004 through, for example, the numbers claiming benefits and children attending schools, as well as increasing numbers of migrants as measured by the Labour Force Survey (LFS).

A significant difference to the earlier period of post-colonial and Irish immigration has been the geographical distribution of the Eastern Europeans. Areas which had previously not experienced high levels of immigration have now become some of the main destinations for Eastern Europeans, who have increasingly taken up

employment in regions such as the East of England and East Midlands (15 per cent each), with only 10 per cent in London in 2007. Scotland, Yorkshire and Humber, and the North-West, too, have attracted large numbers of Eastern Europeans. The North-East and Wales have received far lower numbers of new migrants. London, however, still attracts the largest number of migrants, as measured by applications for National Insurance numbers (NiNos), including self-employed Eastern Europeans not registered on the WRS.

Maps 1.1 and 1.2 and Table 1.1 illustrate the current geography of largely labour immigration. Chapter 6 will look at the sectoral distribution in more detail. As the maps also show, there are areas of high concentration in relation to the population in rural areas in Lincolnshire (Boston and South Holland), Northern Ireland (Dungannon) and Scotland (Perth and Kinross), as well as London boroughs (Westminster and Camden).

**Table 1.1 Spatial distribution of A8/A2 migrants and foreign nationals**

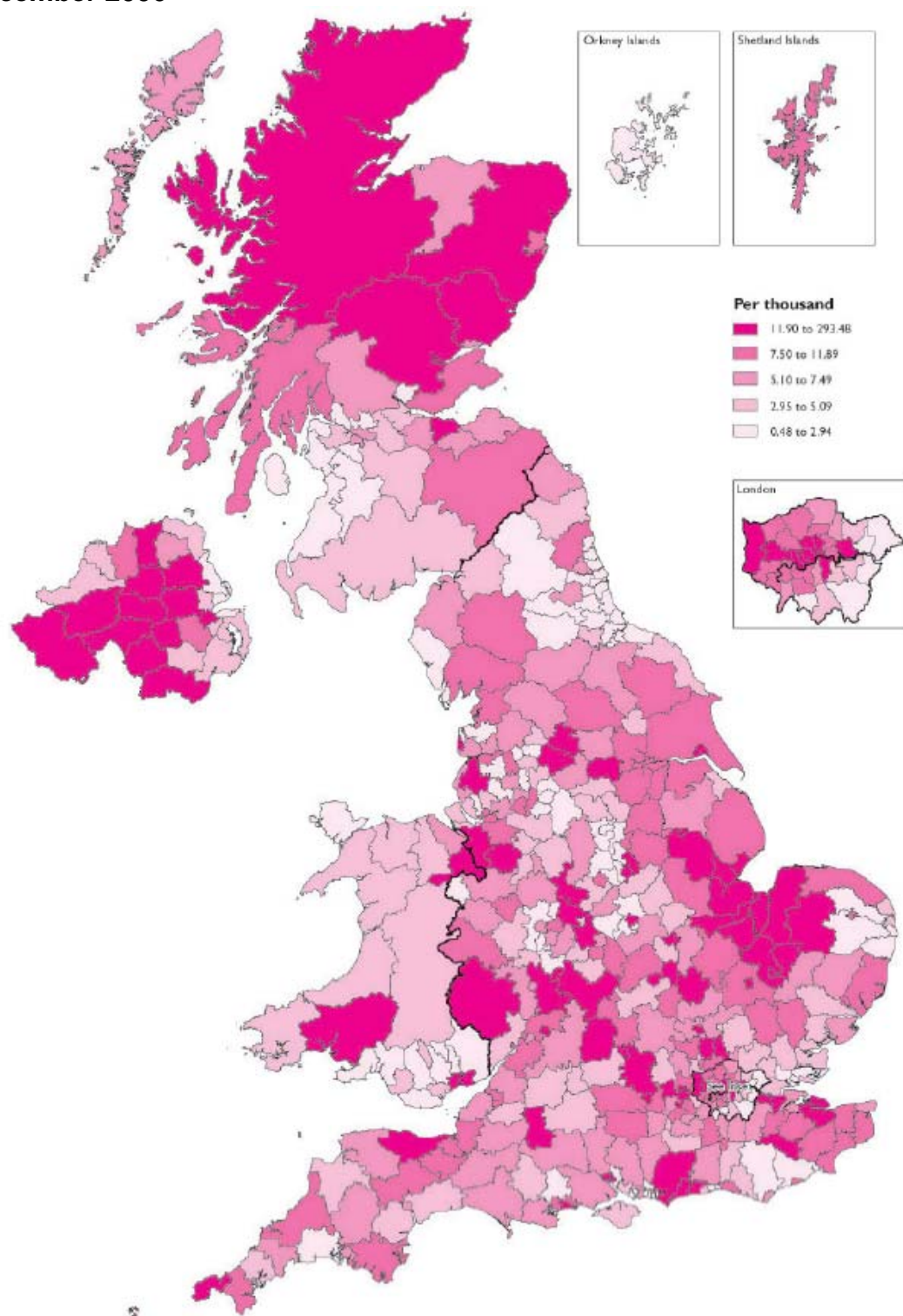
**Percentages of A8/A2 nationals compared with other foreign nationals and UK nationals of working age by region, 2007**

Government Office Region	A8/A2 National Insurance number applications 2006/7	WRS approvals 2004–7	A8/A2 nationals of working age arrived since 2004	Non A8/A2 foreign nationals of working age	UK nationals of working age
North-East	1.7	1.2	2.0	1.8	5.2
North-West	8.6	8.4	7.2	6.7	10.7
Yorkshire and Humber	7.3	8.2	6.9	5.5	8.6
East Midlands	8.1	10.3	11.1	4.4	7.3
West Midlands	8.0	8.5	7.6	7.5	8.8
East of England	9.1	12.0	4.8	3.2	3.7
London	21.8	15.4	21.4	40.9	11.1
South-East	11.2	13.4	17.1	17.3	19.3
South-West	7.4	7.6	8.4	4.2	8.5
Wales	2.9	2.9	3.8	2.2	5.1
Scotland	9.3	8.3	5.3	4.6	8.8
Northern Ireland	4.7	3.9	4.3	1.8	3.0

*Sources:* Pollard et al, 2008, using Department for Work and Pensions (DWP), 2007, Home Office, 2008c, LFS and Institute for Public Policy Research (IPPR) calculations.

*Note:* Some totals may not sum to 100 per cent due to rounding.

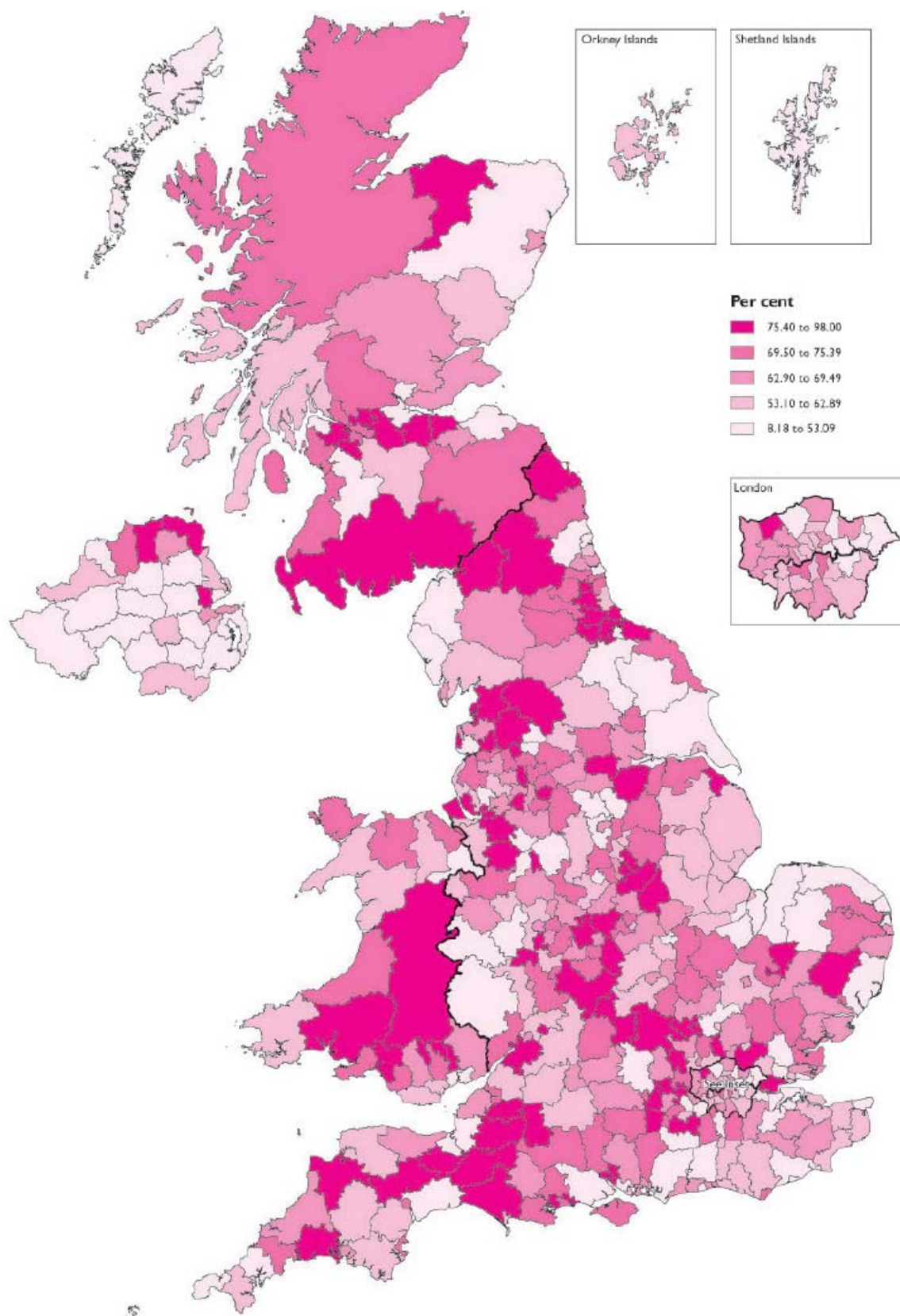
**Map 1.1** A8 registered citizens per thousand population, May 2004 to December 2006



Source: Worker Registration Scheme



**Map 1.2 Poles as a percentage of all registered A8 nationals, May 2004 to December 2006**



Source: Worker Registration Scheme

Other routes also contribute to the supply of labour. Migrants here as a result of **family migration** (that is, the migrant dependants of British citizens, those with permanent residence status, work permit holders and students) have the right to work and need to be considered as part of the potential labour supply. Higher levels of skilled labour migration and of students have resulted in larger numbers of dependants who have the right to work. It is estimated that about half of work permit holders have dependants, of whom half again work (so about 25 per cent of the number of work permit holders needs to be added to the numbers who are able to work) (UKBA, 2008a). Such family members (spouses, children and parents) form the largest group granted settlement status.

**Students** are also growing in number. Though generally only spending a few years in the country, some remain for longer and settle either through seeking work at the end of their degree and/or marrying a permanent resident or citizen. The Scottish Fresh Talent initiative launched in 2005 has in particular encouraged students to remain. To date, 8,000 students have remained in Scotland after the completion of their studies (personal communication).

Table 1.2 indicates the numbers of migrants entering the UK through the main routes – labour, family and students. It does not include European Economic Area migrants exercising treaty rights (including those coming from non-accession countries to work, and accession country self-employed), or those who should appear but do not register their presence officially (A8 unregistered workers and other irregular migrants). The Highly Skilled Migrant Programme was replaced on 30 June 2008 by tier 1 designated for the highly skilled who do not need to have pre-arranged employment. The work permit scheme was replaced by tier 2 on 27 November 2008. A fuller discussion of these changes and breakdown of migrants in these categories can be found in Chapter 2.

In addition to those who are authorised to reside and work in the UK, we should include among new migrants substantial numbers of irregular migrants (see Chapter 6), about whom there have been few studies and for whom it is obviously difficult to give reliable statistics (Wright and McKay, 2007; Farrant et al, 2006). Estimates accepted by the Home Office vary between 310,000 and 570,000 irregular migrants, who primarily work in less skilled sectors such as agriculture, care, cleaning, construction, domestic work, hotel and catering, and textiles.



**Table 1.2 Main routes of entry, 2007**

<b>Labour migration<sup>1</sup></b>	<b>Numbers</b>
Worker Registration Scheme (A8)	217,740
Work permits	86,300
Highly Skilled Migrant Programme*	21,934
Working holiday-makers	37,700
Seasonal agricultural workers	16,250
Domestic workers	10,600
UK ancestry	7,220
Ministers of religion	860
Au pairs	765
Post graduate doctors and dentists	75
<b>Family migration</b>	
Spouses and fiancé/es	42,200
Children	7,150
Settlement on arrival	7,940
Dependants (work permits, students)	54,400
<b>Students</b>	<b>346,000</b>

Sources: Home Office, 2008a, Home Office et al, 2008, Salt, 2007.

Note: \* These figures refer to 2006 (Salt, 2007). A large number of migrants already in the country switched into this category: 14,900 principal applicants and 14,900 dependants in 2006–7 (Freedom of Information, 8799). Of these, 3,670 were postgraduate doctors, 2,430 working holiday makers, 1,820 students and 3,680 work permit holders. The first two categories are no longer permitted to switch under the points-based system.

## **1.2 Nationalities of the ‘new migrants’**

Recent studies of migrants have measured nationality primarily by country of birth rather than formal citizenship. Many statistics covering ethnic minorities are too imprecise and incorporate a number of disparate nationalities. Immigration statistics produced by UKBA do not contain data on British ethnic categories but use nationality (formal citizenship) as a surrogate for race, in response to the Race Equality Impact Assessment.

Although migrants from the Indian sub-continent remain the largest single group, entering both as skilled migrants and family members, the nationalities have become increasingly diverse, with growing numbers from Africa, the Middle East and Asia other than the Indian subcontinent (see Table 1.3). Among Europeans, the biggest influx has come from Eastern Europe, especially Poland. Over 80 per cent of Eastern European migrants have entered in the period 2002 to 2007. Numbers from high-income countries, such as Australia (32.4 per cent), New Zealand (34.2 per cent) and

<sup>1</sup> Labour routes generally decreased from 2006 with several categories falling sharply. Postgraduate doctors and dentists had been 330 and au pairs 1,840 in 2006.

the United States (42.1 per cent) as well as Western European countries (France, Netherlands) have also increased substantially.

**Table 1.3 Foreign-born population by country of birth, 1997–2007**

<b>Rank (2007)</b>	<b>Country</b>	<b>1997</b>	<b>2002</b>	<b>2007</b>
1	India	404,100	424,600	553,300
2	Poland	67,800	49,600	423,300
3	Ireland	534,600	490,500	410,400
4	Pakistan	222,400	281,600	357,900
5	Germany	227,900	266,700	255,300
6	Bangladesh	140,200	179,900	203,800
7	South Africa	93,400	140,900	194,500
	China and Hong Kong			
8	Kong	86,500	125,500	173,600
9	Jamaica	139,900	149,800	173,500
10	United States	126,800	141,900	170,600
11	Nigeria	59,400	78,600	146,600
12	Kenya	122,300	119,900	135,400
13	France	66,400	94,800	133,700
14	Australia	85,900	107,400	123,800
15	Sri Lanka	51,200	84,000	113,600
16	Philippines	..	52,600	106,700
17	Zimbabwe	..	68,000	106,000
18	Italy	91,800	94,200	102,000
19	Somalia	46,100	70,400	90,300
20	Ghana	41,300	45,700	87,200
21	Portugal	..	67,400	73,400
22	Turkey	64,600	55,800	72,500
23	Cyprus	57,200	78,300	72,400
24	Canada	69,200	71,500	71,800
25	Spain	..	55,400	64,000
26	Netherlands	..	..	61,700
27	New Zealand	..	59,600	59,100
28	Iran	..	45,500	57,900
29	Lithuania	..	..	54,800
30	Slovakia	..	..	54,600
31	Iraq	..	..	53,000
32	Malaysia	48,100	63,400	50,100
33	Afghanistan	..	..	45,400
34	Uganda	50,500	51,100	42,500
35	Singapore	41,900	..	41,800
	Former Yugoslavia	..	56,600	..
	<b>Total foreign-born</b>	<b>4,152,000</b>	<b>4,765,000</b>	<b>6,219,000</b>

Source: LFS and IPPR calculations. Quarter 2 data is used for 2002 and 2007, quarter 3 data for 1997.

*Note:* .. is used where estimated populations are less than 40,000 or where there is no information available.

Some nationalities are highly differentiated. For example, the Portuguese include many born outside Portugal (Angola, Mozambique and Brazil) and, in ethnic terms, fall into White European, Black African, mixed and other categories. For those not born in Portugal, the move to the UK may represent secondary migration within Europe. There is increasing interest in the secondary migration of European citizens, especially relating to those of refugee origin (Lindley and Van Hear, 2007), such as Somalis, Congolese, Tamils and Afghans from the Netherlands and the Scandinavian countries.

### **1.3 Gender of the ‘new migrants’**

Analysis of immigration by gender is still poor (Kofman et al, 2005). Although available, the gender breakdown of the WRS in the Accession Monitoring Reports is only published nationally. For the period May 2004 to December 2007, the overall gender ratio of men to women was 57 to 43 (BIA et al, 2008).

The LFS is the best source of data on gender differences of those living and working in the UK. Tables 1.4a and 1.4b indicate the numbers and percentages by nationality and sex. Among the foreign-born living in the UK in 2007 and who had not been in the UK a year earlier, there were 138,000 women and 137,000 men, or just over half women. The gender balance for those in work is quite different: there were 55,000 women and 83,000 men, or 40.4 per cent women (Salt, 2007).

**Table 1.4a Numbers living in UK now and outside UK one year ago, by nationality and sex, 2007**

	Numbers (thousands)					
	Males		Females		Total	
	Living	Working	Living	Working	Living	Working
All nationalities	180	102	186	74	367	176
UK/GB	43	19	49	19	92	38
Foreign nationals	137	83	138	55	275	138
of which:						
Non-EU	70	40	65	20	135	60
EU 25/EFTA	67	43	73	35	140	78
of which:						
EU 15/EFTA	19	:	22	:	41	16
A8	48	34	49	27	97	61
Africa	14	:	11	:	25	10
Asia	32	19	29	:	61	24
North America	:	:	:	:	10	:
Australia & New Zealand						
	:	:	:	:	12	

Sources: LFS, Office for National Statistics (ONS) and Salt, 2007.

Notes: Numbers rounded to the nearest thousand.

: indicates/refers to figures less than 10,000.

A8: includes former Czechoslovakia.

**Table 1.4b Percentages living in UK now and outside UK one year ago, by nationality and sex, 2007**

	Males		Females	
	Living	Working	Living	Working
All nationalities	49.0	58.0	50.7	42.0
UK/GB	46.7	50.0	53.3	50.0
Foreign nationals	49.8	60.1	50.2	39.9
of which:				
Non:EU	51.9	66.7	48.1	33.3
EU 25/EFTA	47.9	55.1	52.1	44.9
of which:				
EU 15/EFTA	46.3	:	53.7	:
A8	49.5	55.7	50.5	44.3
Africa	56.0	:	44.0	:
Asia	52.5	79.2	47.5	:
North America	:	:	:	:
Australia & New				
Zealand	:	:	:	:

Sources: LFS, ONS and Salt, 2007.

Notes: A8: includes former Czechoslovakia.

: indicates/refers to figures less than 10,000.

The gender division among nationalities (flows of immigrants) also differs considerably, as Table 1.5 indicates. For National Insurance numbers allocated in 2005–6 (662,390), 45.8 per cent on average were for female migrants but only 40.5 per cent for Polish women and 36.9 per cent for Indian women (Kofman, 2007: 286). The percentage of female migrants applying for National Insurance numbers has decreased from 49.1 per cent in 2000–1, probably because of the greater proportion of men in the Eastern European migrations (BIA et al, 2008).

**Table 1.5 Number of National Insurance number registrations by non-UK nationals, 2005–6, by gender and nationality**

Ranking	Country	All	Male	Female	Male %	Female %
1	Poland	171,380	101,950	69,420	59.5	40.5
2	India	45,980	29,010	16,970	63.1	36.9
3	Rep of Lithuania	30,530	15,720	14,810	51.5	48.5
4	Slovak Rep	26,370	15,340	11,040	58.2	41.9
5	South Africa	23,970	12,360	11,610	51.6	48.4
6	Australia	23,820	10,270	13,540	43.1	56.8
7	Pakistan	22,270	15,150	7,120	68.0	32.0
8	France	17,170	8,720	8,450	50.8	49.2
9	Rep of Latvia	14,180	6,880	7,310	48.5	51.6
10	Germany	13,350	6,100	7,250	45.7	54.3
11	China Peoples Rep	12,930	5,450	7,480	42.2	57.8
12	Czech Rep	12,700	6,820	5,880	53.7	46.3
13	Nigeria	12,170	7,160	5,000	58.8	41.1
14	Portugal	11,600	6,670	4,940	57.5	42.6
15	Italy	11,200	6,570	4,630	58.7	41.3
16	Spain	11,050	5,060	5,990	45.8	54.2
17	Rep of Ireland	10,330	5,150	5,180	49.9	50.1
18	USA	9,560	3,800	5,760	39.7	60.3
19	Bangladesh	9,340	6,740	2,600	72.2	27.8
20	Philippines	8,790	3,510	5,280	39.9	60.1
21	Hungary	8,600	4,800	3,800	55.8	44.2
22	New Zealand	8,370	3,720	4,650	44.4	55.6
23	Netherlands	7,700	4,320	3,380	56.1	43.9
24	Ghana	6,800	3,580	3,220	52.6	47.4
25	Brazil	5,560	2,530	3,030	45.5	54.5
26	Canada	5,390	1,950	3,440	36.2	63.8
27	Zimbabwe	5,160	2,330	2,820	45.2	54.7
28	Sri Lanka	4,970	2,430	2,540	48.9	51.1
29	Sweden	4,760	2,030	2,740	42.6	57.6
30	Malaysia	4,230	1,970	2,260	46.6	53.4
31	Somalia	4,160	1,950	2,210	46.9	53.1
32	Turkey	4,050	2,380	1,670	58.8	41.2
Others		93,950	46,490	47,460	49.5	50.5
<b>All</b>		<b>662,390</b>	<b>358,910</b>	<b>303,480</b>	<b>54.2</b>	<b>45.8</b>

Source: DWP: National Insurance number statistics.

#### 1.4 Age of the 'new migrants'

The majority of migrants are young. Statistical information about both A8 migrants and highly skilled migrants shows that numbers decrease from about 35 years of age. For older family members, such as parents, entry conditions are very restrictive (see Chapter 9) and age-discriminatory. Table 1.6 notes the small numbers of new migrants over the age of 45 who apply for National Insurance numbers (such applications are for the purposes of entering the labour market, going into business or self-employment, applying for benefits or appearing on the benefit application of someone else as a family member or non-dependant).

**Table 1.6 Applications by foreign nationals for National insurance numbers, by age and year of registration (thousands)**

	2002/3	2003/4	2004/5	2005/6	2006/7
All	349.3	370.8	439.8	662.4	713.4
<18	4.8	5.2	3.9	5.0	5.9
18-24	108.0	116.7	150.7	240.5	264.7
25-34	169.2	174.5	203.8	297.4	312.2
35-44	47.8	52.4	55.4	79.4	85.3
45-54	15.6	17.8	21.1	33.0	37.2
55-59	2.8	2.9	3.4	5.1	5.7
60+	1.2	1.3	1.5	2.1	2.5

Source: Salt, 2007.

## 2 Managed migration and citizenship

A speech in 2000 by the then immigration minister Barbara Roche marked an opening in the approach to migration within the context of a global world. This had potentially huge economic benefits for the UK, and also emphasised that Britain had always been a nation of migrants. The acceptance of immigration and the need to adopt a managed migration approach were officially enshrined in the introduction to the White Paper *Secure Borders, Safe Haven* (Home Office, 2001), which defined the meaning of managed migration as:

... having an orderly, organised and enforceable system of entry. It also means managing post-entry and inclusion in the economy and society, helping migrants to find their feet, and enabling members of the existing population to welcome them in their communities (Home Office, 2001: paragraph 1.3).

This chapter firstly outlines the development and rationale of the managed migration approach, especially the introduction of the points-based system (PBS) and its application to sub-national levels. It then examines the equality implications of immigration entry policies and of the conditions under which migrants may settle. It lastly looks at the recent proposals for citizenship and how these relate to current immigration patterns and trends.

Managed migration is a strategy that could be called a 'third-way perspective' on immigration between extremely restrictionist and highly expansionist immigration flows (Crawley, 2003). A managed approach had been proposed in an earlier Institute for Public Policy Research (IPPR) publication (Spencer, 1994) and by the Council of Europe in 1998 (Salt, 2004). The reasons for adopting the idea, rhetoric and practices of managed migration are varied (Kofman, 2005). They include the need to pull together an increasingly complex set of statuses, rights (Morris, 2002) and agents involved in the migratory processes. They need to demonstrate the ability to exert control in a context of uncertainty and risk produced by globalising processes, and to give the impression (and assure public opinion) of being able to measure benefits against costs.

Migration was seen to be driven by globalisation and, like other developed states, the UK competes for skilled workers (Home Office, 2003). The Home Office introduced the Highly Skilled Migrant Programme (HSMP) in 2002 and expanded it on 31 October 2003. Coupling globalisation with skilled workers (which privileges the scientific, financial and managerial sectors, and, to a lesser extent, health), tends to marginalise the less skilled who, in contrast, are deemed to compete with established labour forces and pose pressures on welfare expenditure. Hence, the key divide is



between the skilled and the less skilled. In general, the value of less-skilled labour is played down or denied, especially that of household labour (cleaning and care), largely supplied by female migrants (Kofman, Raghuram and Merefield, 2005).

The rights of entry, subsequent residence and pathway to citizenship of the latter are now severely limited. Lesser-skilled migrants are not able to build up an unbroken period of residence which would enable them to settle and become citizens. In the UK, the sector-based scheme (SBS, implemented in 2003) stipulated a break of two months after a 12-month work permit before a further application could be made. The Seasonal Agricultural Workers Scheme (SAWS) (the 16,250 quota, which, in 2007, was split between 40 per cent for Bulgarians and Romanians and 60 per cent for students from outside the European Economic Area (EEA), and, in 2008, was reserved for Bulgarians and Romanians), requires a break of three months after every six months' work.

Government priorities for managed migration were affirmed in 2007 in a new Public Service Agreement (PSA number 3): 'Ensure controlled, fair migration that protects the public and contributes to economic growth', covering the Comprehensive Spending Review period from 2008 to 2011. One of the underlying performance indicators for PSA number 3 was also 'the effective management of migration to reduce the vacancy rate in shortage occupations' (MAC, 2008, p 44).

What has become more marked is an increasing coupling between immigration policies and labour market intervention, especially through salary levels which are seen as a means of attracting domestic labour into a sector, especially at the less skilled and remunerated end. Before analysing this in greater depth this report will outline the new PBS, which has evolved over the past few years and combined and repackaged the various existing routes to include workers (longer-term and temporary), students and visitors, but not family migrants.

The system is based on global competition for skilled labour (tiers 1 and 2), including students who have studied in the UK, and intra-European flows, especially of Eastern Europeans who are outside the PBS and supply the less skilled sectors currently through the Worker Registration Scheme (WRS). For the time being, Bulgaria and Romania are not fully incorporated into EU labour mobility. They supply both skilled labour (tier 2) and unskilled labour via SAWS and SBS. Several other groups also provide labour in less skilled jobs, though as individuals they may have high levels of qualifications: working holiday-makers (now in tier 5), largely from the Old Commonwealth countries, students working part-time during term-time and full-time in their holidays, au pairs and overseas domestic workers. Table 2.1 indicates the

relationship between skills, criteria for entry, and conditions of residence and citizenship in the PBS.

**Table 2.1 The points-based system**

<b>Tier</b>	<b>Criteria</b>	<b>Conditions</b>
1. Highly skilled (implemented 30 June 2008 and revised 31 March 2009)	75 points (based on qualifications, age, income), maintenance requirement and linguistic competence <sup>(1)</sup> but no specific job offer. Four categories: general, entrepreneurs, investors, post-study students qualified in UK <sup>(2)</sup> .	Initial period of three years then renewal. Leads to permanent residence and citizenship. Can bring in immediate family (married, civil partners, cohabiting including same-sex) with no recourse to public funds. Partner may work.
2. Skilled with job offer (implemented 27 November 2008)	General: 70 points Shortage list: 50 points Resident Labour Market Test: 30 points Switching from post study: 30 points. Requiring sponsors for jobs at NVQ3 or above and have to be paid an appropriate UK salary for the job. Qualifications (up to 15 points) Future expected earnings (up to 20 points) Maintenance (10 points) Language (10 points)  Intra-company transfers: 30 points, maintenance requirement and linguistic competence, and have to have worked for a company for six months prior to transfer. Have to be paid an appropriate UK salary for the job.  Sports professionals: 70 points	Leads to permanent residence and citizenship. Can bring in immediate family with no recourse to public funds. Partner may work.

	<p>Sponsorship (50 points)          Qualified to do job          Intend to base themselves in UK          Comply with conditions of permission to stay and leave UK when leave expires          Maintenance (10 points)          Language (10 points)</p> <p>Ministers of religion:          70 points          Sponsorship (50 points)          Same as above conditions          Maintenance (10 points)          Language (10 points) – able to speak English equivalent to the Council of Europe level B2 <sup>(3)</sup>.</p>	
3. Low skilled	<p>Temporary work.          Indefinitely suspended.          Only open to Bulgarians and Romanians.</p>	Time-limited. No route to settlement or citizenship.
4. Students (implemented 31 March 2009)	<p>Adult Students post 16 education:          Visa letter from approved educational sponsor (30 points)          Maintenance. <sup>(4)</sup></p> <p>Child Students:          Between four and 17 years. Between four and 15 years education in an independent fee-paying school          Visa letter (30 points)          Maintenance (10 points)</p>	Can work up to 20 hours in term time and full time in vacations.
<p>5. Youth mobility (implemented 27 November 2008)</p> <p>Temporary workers (five categories): religious, government exchange,</p>	<p>From designated countries with which UK signs a reciprocal agreement. 18–30 years. Any employment.</p>	<p>Maximum stay of 24 months. No right to bring in family members (spouse except in own right and children) or switch to tiers 1 or 2.          Maximum stay of between 12 and 24 months.</p>

voluntary workers, international agreement and private servants of diplomatic households (implemented 27 November 2008).		
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*Notes:*<sup>(1)</sup> Criteria for tier 1

- Composition of 75 points:  
Age: 20 points under 28 years; 10 points 28–29 years; 5 points 30–31 years  
Qualifications: 50 points PhD; 35 points Masters  
Salary: (from sterling converted equivalent) 5 points for £16,000–£17,999 up to 45 points for £40,000+  
Experience of studying or working in the UK: 5 points
- Maintenance. For those applying from within the UK: £800 at all times during three-month period prior to application. For those applying from outside the UK: £2,800 for first three months in the UK. For each dependant: £1,600 for the whole three months. 10 points.
- Language requirement: C1 Council of Europe Common European Framework, which means proficiency in expression and writing; or to come from a majority English-speaking country; or taught in English from selected countries and verified by NARIC (the National Agency for information about and verification of international qualifications). 10 points.

<sup>(2)</sup> The Scottish Fresh Talent scheme launched in 2005 is now amalgamated into a UK-wide scheme for international graduates as part of the post study strand of tier 1. It allows students with UK degrees to remain in the UK for two years in search of work with no requirement for a work permit. In Scotland, the minimum level of education is lower with a vocational HND being recognised, rather than a degree as elsewhere. At the end of the two years they must transfer onto either tier 1 or 2 but cannot prolong this status.

<sup>(3)</sup> Criteria for tier 2

- Composition of points:  
Qualifications: 15 points for PhD; 10 points for BA/MA; 5 points for NVQ3  
Salary: 5 points for £17,000–£19,999; 10 points for £20,000–£21,999; 15 points for £22,000–£23,999; 20 points for £24,000–£39,999
- Maintenance: £800 for applicant savings and £533 per dependant for three months unless a sponsor provides written confirmation they will maintain and accommodate the migrant (and dependants) until the end of the first month of their work in the UK. 10 points.
- Language requirement: see <sup>(1)</sup>

<sup>(4)</sup> Criteria for tier 4

- Maintenance: fees plus £800 per month London (inner) and £600 per month elsewhere for nine months.

## **2.1 Sub-national and regional dimensions of immigration policies**

Immigration is reserved to the UK Government, hence decisions regarding who enters and remains in the country is the sole remit of the state. For example, the Scotland Act (1998) does not allow for legislative powers that refer to immigration. However, Scotland has a distinct and separate legal system. So while the Asylum and Immigration Tribunal (AIT) deals with asylum, managed migration and human rights cases on a UK-wide basis, further appeals are made to the High Court in England and Wales and the Court of Session in Scotland. A two-year study of how the Court of Session reviews decisions by the AIT by Craig, Fletcher and Goodall (2008) found that there are distinctive Scottish procedures concerning legal aid funding, which is regarded as being more favourable, and different mechanisms to submit applications to the Court of Session. Although to some extent a separate approach to procedural points was apparent in Scotland, this did not extend to a distinctive approach when applying the law. In this area, the research found that Court of Session judges were anxious to ensure that a UK-wide jurisprudence was maintained. This was demonstrated in the treatment of cases dealing with the right to private and family life under Article 8 of the European Convention on Human Rights.

Though sub-national governments do not have the right to develop their own immigration policies, Scotland's Fresh Talent initiative enables graduates to remain in Scotland after the end of their studies. This has now been incorporated into the post-study strand of tier 1 but includes a lower level of educational attainment for Scottish students.

At present there is a national conversation being conducted in Scotland about pursuing further devolved powers, including in the area of immigration. For several years there has been concern in the Scottish Government about its future demographic profile, in particular its declining and ageing population and the possibility that the population would fall below five million by 2009. As a result of immigration and higher birth rates, the population is growing. In 2007, for example, 63,000 Scots residents left the country but there were almost 90,000 new arrivals. They included a net gain of 8,800 people from the rest of the UK, 16,800 from overseas and 1,200 members of the armed forces. This was also the fifth consecutive year that the number of births had risen but the only one in which births totalled more than deaths, as a report of the General Registers of Scotland has indicated. Around one third of the babies born in Scotland in 2007 were to mothers born in Eastern Europe, and the Scottish Government revealed that there are 3,347 school pupils whose first language is Polish (Horne, 2008).

The divergence between UK and Scottish needs and attitudes in relation to managed migration is becoming clearer (Kyambi, 2008). Discussions have been held with other

sub-national authorities, such as Catalunya, Flanders and Quebec about sub-national immigration policies. The questioning of the economic benefits of immigration (House of Lords, 2008) contrasts with the positive perception by many Scottish authorities and experts. Some, such as Professor Robert Wright have suggested Scotland needs 25,000 new immigrants per year (Hamilton, 2007; Wright, 2008) but that, as the UK seeks to reduce its immigration levels, it is likely to have a negative impact on Scotland's need to increase the number of immigrants willing to stay for at least several years, if not settle permanently. Wright argues that Canadian immigration policies provide a relevant model. In the Canadian case, there are both sub-national and regional variations. Quebec determines who it accepts as a migrant and places emphasis on the French language, unlike other provinces which participate in a federal-provincial partnership in a provincial nominee scheme. The numbers entering through this route have increased substantially since its inception in 1999 when 477 came under this programme compared with 13,336 in 2006. The province nominates migrants and uses more employer-driven and labour-market shortages than the usual more generic criteria (education, knowledge of English and French, age, arranged employment, work experience, adaptability) of selection deployed by Citizenship and Immigration Canada (CIC). The nomination is sent to CIC who make the final decision. There is therefore a geographical component to the Canadian scheme which could also be applied in the UK both at sub-national and regional levels. For example, the Migration Advisory Committee (MAC) has published an additional Scottish list reflecting specific labour-market shortages.

So while immigration is not a devolved matter, it cuts across many areas of service delivery, particularly in education, health and housing. These are some of the areas that are the responsibility of the sub-national governments and have a particular resonance with immigration policies. The experience of migrants may also be different because of different educational, social and anti-discrimination policies. Thus the Scottish Government has responsibility for integration and community development, children's services, health and social care, access to justice, enterprise, life-long learning, employment and training. It has different legislation applicable in a number of areas such as mental health, community care, housing, education, and English for Speakers of Other Languages (ESOL) provision.

Wales, too, has responsibilities for service implementation which may give rise to differences. Here, for example, in relation to housing, Welsh eligibility regulations are different, and specifically enable accession state migrants to apply for housing waiting lists and homelessness assistance irrespective of employment, registration or authorisation (unlike the Scottish regulations which were amended to bring them broadly in line with the English in 2008 – see Chapter 7).

## 2.2 What are the equality implications of immigration entry policies?

Since 2000 and the transposition of European Union Directives, a number of equality duties applicable to public authorities have been introduced. A duty in relation to race equality has existed since the Race Relations (Amendment) Act 2000. However the Border & Immigration Agency (BIA) (now the UK Border Agency (UKBA)) was exempted from Section 71 (duty to promote equality of opportunity between persons of different racial groups) in carrying out its immigration and nationality functions but nevertheless is required to promote good relations between such persons. As we shall see, the Race Equality Duty has been invoked in relation to immigration legislation. There is also a disability equality duty based on the Disability Discrimination Act 2005, which entered into force in 2006. A gender equality duty was introduced into the Sex Discrimination Act 1975 by Section 84 of the Equality Act 2006, and came into force on 6 April 2007. The latter imposes a general duty on public authorities in carrying out their functions to have due regard to the need: (a) to eliminate unlawful discrimination and harassment, and (b) to promote equality of opportunity between men and women. It also requires consultation with stakeholders, taking into account any information it has gathered or considers relevant as to how its policies and practices affect gender equality in the workplace or delivery of services, and in formulating its overall gender objectives to address the causes of any gender pay gap.

However, there has been little in-depth research conducted on the equality implications of immigration policies, especially in relation to the highly skilled (see CRE, 2007, and discussion of judicial review and extension in this chapter; Kofman et al, 2005, for gender). The Commission for Racial Equality (CRE) had earlier expressed its concerns in relation to the Immigration and Asylum Bill in 2006 at the inadequacy of the Bill's Race Equality Impact Assessment (REIA)<sup>2</sup>. Equality Impact Assessments (EIAs) warrant further research based on both interviews with migrants and statistical analysis. UKBA and (previously) the BIA have undertaken several EIAs, on the Prevention of Illegal Working (May 2007), tier 1 of the PBS (February 2008), tier 2 (May 2008) and tier 5 (2008). The first concluded that there might only be implications for race equality and to a minor extent gender identity<sup>3</sup>. It commissioned research on employment and noted that some of the relevant employment tribunal judgements involved recent migrants. The second EIA largely referred to applications for the HSMP rather than to the extensions which have been the source of considerable controversy and legal challenges. Furthermore, UKBA refuses to take into account any discrimination that may be faced in the UK workplace by migrants and which would make it difficult for them to fulfil the criteria

<sup>2</sup> CRE briefing to the House of Lords, third reading of the IAN Bill, 10 March 2006. See <http://83.137.212.42/sitearchive/cre/Default.aspx?LocID=0hgnew0bm.RefLocID=0hg00900f006.Lang-EN.htm>

<sup>3</sup> The only stakeholders consulted were those concerned with race equality.

for the extension of their leave to remain and settlement under this route of entry. In relation to tier 2, too, they set aside considerations of social and economic conditions in countries of origin and discrimination in the workplace in the UK.

In this section, the equality implications of the new tier 1 is analysed in the light of existing statistical evidence and BIA responses to stakeholder concerns under its seven equality target areas. Also examined are the wider-ranging issues raised by retrospective changes imposed in November 2006 on skilled migrants already in the system in relation to the extension of their leave to remain. Finally, the equality implications of other employment-related routes are considered, especially that of work permits and tiers 2 and 5.

### **2.3 Equality Impact Assessment of HSMP and tier 1**

The following issues have been raised in relation to the different equality strands of the BIA response to the EIA for the HSMP. It concluded that on the whole the shift from the old to the new criteria for entry in November 2006 did not appear to have an adverse impact in terms of nationality (used as a surrogate for race) or gender, the two most easily measurable social differences and relations. However, disproportionate impacts may have occurred, as they note in relation to disability, gender identity and sexual orientation, because quantitative data are not collected for such users of the immigration system.

This section primarily examines statistical evidence for the actual and potential effect of the implementation of the PBS. There is also information emerging from organisations such as the Immigration Lawyers Practitioners Association (ILPA) and Joint Council for the Welfare of Immigrants about the changing responses to tier 1, which has been in operation since June 2008. For example, the fixed maintenance requirement, which is not modulated according to the wealth of the country of origin, is likely to deter migrants from bringing in family members, especially those from poorer countries.

**Race:** As noted, Section 71 of the Race Relations Act 1976 to promote equality of opportunity between persons of different racial groups does not apply to those carrying out immigration and nationality functions but does to the promotion of good relations between persons of different racial groups. However, good relations depend to some extent on the perception of being treated equally and fairly, so unequal treatment by immigration regulations may well sour good relations. This was recognised in the judicial review of the HSMP in that it disproportionately affected Indians, who, as well as being recent migrants, are also members of an ethnic minority.

Analysis of applications is based on nationality. The approval rate has generally increased but continues to be higher for developed countries and for the emerging



economic powers, such as India. It appears not to have been affected by the shift from old to new criteria (see Table 2.2), probably because salaries are converted and weighted according to the GDP level of the applicant's home country.

**Table 2.2 Applications for HSMP, 01/01/2006–31/12/2007, by country**

Country	Old criteria	Percentage approved	New criteria	Percentage approved
India	16,065	51.2	17,611	66.6
Pakistan	4,900	36.3	5,715	46.8
Nigeria	3,600	38.0	5,191	44.8
Australia	2,518	71.4	4,690	72.9
New Zealand	1,211	71.8	2,440	71.3
South Africa	1,170	62.1	1,953	80.0
USA	880	62.6	1,480	66.7
Sri Lanka	666	59.6	1,155	63.0
Bangladesh	592	47.8	530	43.8
China	851	44.1	1,453	62.0
Malaysia	433	57.3	795	69.5
Russian Federation	408	63.7	499	73.7
Egypt	305	66.2	198	61.1
Canada	303	62.4	545	65.1
Total	38,028	51.0	49,783	61.8

Source: FOI, 2008, 841, 871

Some respondents to the Equality Impact Assessment also raised the issue of the differential recognition of qualifications, for which the BIA is using NARIC to provide degree equivalences. However, a more serious problem arises at the time of extension when HSMP migrants need to show they have managed to attain employment at a sufficiently high level to demonstrate they are really doing highly skilled work: in this, they face the difficulties encountered by ethnic minorities in the labour force in the UK. We shall take this up more fully in the subsequent discussion of the judicial review of the HSMP in relation to the extension of residence.

**Gender:** Fewer women enter the UK under the HSMP. There was a slight increase in the percentage of applications from women from 21.6 per cent in 2002 to 23 per cent in 2004. In 2006, 26.8 per cent (old criteria) and, in 2007, 28.4 per cent (new criteria) of applications were for women, so there is evidence of some increase and no negative effect of the shift to criteria based exclusively on qualifications and salary in the past year. The male-female approval rate has stayed roughly the same at 63 per cent of approvals for women and 62 per cent for men. The most notable change was the decrease in the percentage of approvals for South Asian countries (see Table 2.3), which is most likely due to the reduction in the health sector and restrictions against postgraduate doctors switching into the HSMP.

**Table 2.3 HSMP applications approved, 01/01/2006–31/12/2007, by gender and nationality**

Nationality	Old criteria		New criteria	
	Total	Female %	Total	Female %
India	8,226	20.5	11,746	15.5
Australia	1,799	46.4	3,417	47.8
Pakistan	1,780	13.1	2,679	13.0
Nigeria	1,367	26.3	2,367	31.1
New Zealand	870	51.1	1,741	51.1
South Africa	726	36.9	1,563	42.0
USA	551	41.4	987	47.8
China	375	52.0	901	53.1
Sri Lanka	397	26.4	729	22.6
Malaysia	248	46.4	551	46.3
Russian Federation	260	32.7	368	46.5
Canada	189	36.5	355	49.3
Bangladesh	283	13.4	242	12.8
Turkey	63	31.7	212	29.2
Nepal	159	9.4	186	14.0
Kenya	73	32.9	167	44.9
Ghana	80	20.0	159	18.2
Zimbabwe	106	34.0	158	22.2
Ukraine	96	36.5	131	45.8
Singapore	66	62.1	129	51.2
Iran	95	18.9	126	20.6
Egypt	202	10.4	121	20.7
Mauritius	33	30.3	94	37.2
Trinidad and Tobago	92	48.9	82	47.6
Colombia	23	52.2	72	34.7
Israel	49	22.4	72	29.2
Uganda	20	40.0	70	32.9
Brazil	94	23.4	66	39.4
Korea South (Rep Of Korea)	29	31.0	62	45.2
Myanmar	80	51.3	57	47.4
Japan	40	35.0	50	76.0
Others	934	...	1,126	...
<b>Total</b>	<b>19,405</b>	<b>27.5</b>	<b>30,786</b>	<b>28.9</b>

Source: FOI, 2008, 841, 871

There is evidence that the maintenance levels are resulting in applicants leaving their dependants behind and that this might be particularly difficult for women given their caring responsibilities (personal communication, ILPA).

**Age:** The PBS overtly discriminates on grounds of age, with additional points for those aged 31 years and under. The BIA argued in support of its positive discrimination, which has seen the number of applicants in the age group 28 to 31

rise from 26 per cent in 2006 to 37 per cent in 2007. It was certainly more difficult under the old criteria for younger migrants to enter as Table 2.4 illustrates.

**Table 2.4 Number of applications for HSMP, 01/01/2006–31/12/2007, by age**

Age	Old criteria	Percentage approved	New criteria	Percentage approved
25 and under	2,320	41.4	5,295	62.3
26–27	7,139	50.7	10,555	65.0
28–29	6,697	51.5	10,082	62.5
30–31	4,598	56.1	6,968	69.1
32–35	7,615	54.1	8,534	61.4
36–39	4,515	51.6	3,737	58.6
40–44	2,885	45.4	2,185	52.7
45–49	1,026	48.0	944	52.5
50 and over	917	44.4	671	48.4
<b>Total*</b>	<b>37,688</b>		<b>49,782</b>	

Source: FOI, 2008, 841, 871

Note: A few did not state their age and a few were recorded inaccurately.

However, unlike other countries, there are no negative points given for those who are older (Canada) or an upper age limit for entry (Australia).

If age and gender are pulled together (see discussion in previous section), it would appear that the additional points given to younger migrants have a similar effect on women and men. Stakeholders had raised concerns about additional points being given to migrants in their 20s, since the late 20s might be an age when women are on maternity leave and/or looking after young children, and therefore less able to obtain the salaries of comparable men. On the basis of the statistical data, this does not appear to have happened (Table 2.5) in that both women and men have seen the percentages of approved applicants decline in the early 30s. However, further research would be necessary to explore the intersectionality of gender, age and nationality more fully (see Chapter 4).

**Table 2.5** Approved HSMP applications, 01/01/2006–31/12/2007, by age and gender

Age	Old criteria			New criteria		
	Females %	Males %	Total	Females %	Males %	Total
18–25	6.9	4.2	960	12.9	9.8	3,304
26–27	24.3	16.5	3,621	27.1	20.4	6,870
28–29	20.4	16.8	3,449	22.4	19.7	6,314
30–31	11.1	14.1	2,581	13.1	16.7	4,818
32–33	10.5	12.6	2,336	9.1	11.5	3,331
34–35	7.7	9.7	1,780	4.9	6.8	1,918
36–39	9.8	12.8	2,328	5.5	7.8	2,192
40–44	5.7	7.2	1,321	2.9	4.1	1,151
45–49	2.0	3.5	597	1.3	1.8	496
50+	1.4	2.5	430	0.8	1.2	327
na	0.0	0.0	2	0.1	0.2	65
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>19,405</b>	<b>100.0</b>	<b>100.0</b>	<b>30,786</b>

Source: FOI, 2008, 841, 871

**Disability:** The PBS Impact Assessment reduces this strand to whether one can access the online application. BIA's response was that they will make the content of the website accessible to a wide range of people with disabilities. However, a full assessment also has to consider the probability of earning lower salaries as a result of a significant disability, the difficulties of getting into the labour market with a disability and the likelihood of employers making reasonable adjustments for workers whose stay in the UK may be perceived as temporary in the first place. Many disabled people are likely to be disadvantaged by all requirements to accommodate and support without recourse to public funds (as applied to applications for leave to enter as spouses, civil partners, children, workers and students) because their disability may mean that the costs of their accommodation and support will be correspondingly higher than for those with no such disability.

**Sexual orientation:** No impact assessment was identified in relation to the PBS. Civil partners are recognised in the rules, and allowed to enter and have the same leave as their partners on the PBS. Entering as a partner in a same-sex relationship has been made easier through changes in immigration rules which now place them in the same position as marriage, that is, able to enter for two years subject to a bar on recourse to public funds. More men (335) use this route than women (80) (Home Office, 2007a). There is the potential for discrimination where a civil partnership or marriage is not possible in the home country but the rules allow for cohabitees of two years' standing to be granted entry and also for proposed civil partners to enter on the same terms as fiancé/es.

**Religious belief and opinion:** No impact assessment in the PBS consultation.

## 2.4 Extension of residence

Most of the equality impact evaluations focused on entry requirements, but it was the imposition of similar points criteria to those already on the scheme which has generated a great deal of heated debate and legal challenges by the HSMP Forum. In a change announced on 6 November 2006 and applied on 8 November 2006, those requesting an extension to their leave to remain after the initial two-year period would now have to demonstrate that they were earning a sufficiently high salary (the amount depends on qualifications). In the original scheme, migrants had to show they were making reasonable efforts to find employment or set up a business to be granted an extension and to be lawfully economically active to obtain indefinite leave to remain. Migrants had also been requested to give an undertaking that they would make the UK their habitual residence and hence uproot themselves from their home countries, even if not severing all ties.

A number of organisations (ILPA, CRE) and reports (Joint Parliamentary Committee) supported the HSMP Forum attempt to rescind the BIA retrospective action. Their critiques were taken into account in the judicial review by Sir George Newman, who found that the changes demonstrated conspicuous unfairness and were unlawful (in *R (HSMP Forum Ltd) v SSHD* [2008] EWHC 664 (Admin)). The latter allegation had been made partly on the grounds of the Race Relations Act 1976 Section 71. The failure to carry out a REIA in such a way as to inform the consultation contributed to the negative judgement against the Secretary of State for the Home Office. The CRE letter to the BIA (6 June 2007) had outlined concerns of how the scheme affected the original applicants, as well as the failure to take into account differences that skilled migrants in managerial and professional positions would encounter in the UK and which, with the new emphasis on salary levels, would make it difficult for many HSMP migrants to be able to extend their leave. A quantitative study by Clark and Drinkwater (2007) showed that Black Africans and Bangladeshis earn up to 25 per cent less than white men in similar positions. Earnings disadvantage for men from ethnic minorities is therefore a pervasive feature of the British labour market. Yet, as Newman concluded, it was obvious from the composition of the HSMP migrants that a large number of them also constitute ethnic minorities in the UK. The HSMP Forum also pointed out that not having a secure residence permit could make it difficult to obtain a well-paid professional job.

The Home Office action has raised wider issues about the way in which the Government has altered immigration rules, especially where these changes would lead to an interference with a right such as the right to respect for home and family life (Article 8 ECHR). The requirement that any such interference be in accordance with the law means that such changes should be prospective only and accompanied by a statement as to the compatibility of the changes with the ECHR (Joint

Committee on Human Rights Twentieth Report 2006–7 Session). The Joint Committee contested the idea that the Government has unfettered power over immigration. In relation to consultation and the application of REIA, the CRE noted in its letter to the BIA that ‘We are of the clear belief that the Race Equality Impact Assessment (REIA) of the changes to the HSMP does not fully comply with the requirements of the Race Equality Duty’, and that ‘the REIA neglected to address the first limb of the general statutory duty outlined in section 71(1)(a) – to eliminate unlawful racial discrimination – and shows no evidence of consideration of the duty to promote good race relations under section 71(1)(b)’.

## **2.5 Work permits and tier 2**

Since 2000, work permits are supposed to be issued for jobs where there is a minimum entry-level requirement of at least NVQ3 plus three years relevant experience. The worker is sponsored by an employer for a particular job at a particular place. A list of shortage occupations for which a resident labour market test is not required, has been regularly reviewed and updated.

Compared to highly skilled migrants, the gender division of migrants among work-permit holders is more evenly distributed. Though increasing since the mid-1990s, the gender division also varies substantially between nationalities, as Tables 2.6a and b show. This reflects the shortage areas and the nationalities which fill them. The most feminised occupations are in the welfare sector (care, education, health – especially nursing – and social work) and the higher gender ratios are largely due to the growing shortages in these occupations. For example, the very high percentage of female work permits among Filipinas reflects their recruitment as nurses and senior carers, especially since the late 1990s (Winkelmann-Gleed, 2006).

**Table 2.6a Work permit applications approved (individual and group), 1996–2004**

<b>Women</b>				<b>Men</b>			
<b>Nationality</b>	<b>1996</b>	<b>2000</b>	<b>2004</b>	<b>Nationality</b>	<b>1996</b>	<b>2000</b>	<b>2004</b>
India	575	2,897	13,588	India	3,989	15,845	31,643
USA	3,623	5,934	5,979	USA	14,327	17,968	18,358
Philippines	70	5,228	10,095	Japan	3,423	3,241	2,741
South Africa	348	3,318	5,847	South Africa	888	2,977	4,551
Australia	758	2,429	3,297	Australia	1,469	3,251	3,648
Zimbabwe	188	1,104	2,682	Pakistan	512	1,393	5,885
PR China	250	779	2,685	PR China	905	1,532	4,037
Canada	538	1,079	1,404	Canada	1,446	2,188	2,409
New Zealand	220	1,030	1,280	Philippines	71	2,176	3,288
Nigeria	180	889	1,425	Bangladesh	62	152	8,100
<b>Total (women)</b>	<b>10,781</b>	<b>34,024</b>	<b>67,362</b>	<b>Total (men)</b>	<b>32,231</b>	<b>68,148</b>	<b>114,070</b>

Source: Work Permit UK

**Table 2.6b Percentage of work permits for women, 1996–2004, by nationality**

<b>Country</b>	<b>1996</b>	<b>2000</b>	<b>2004</b>
Australia	34.0	42.8	47.5
Canada	27.1	33.0	36.8
China	21.6	26.2	39.9
India	12.6	15.5	30.0
Philippines	49.6	70.6	75.4
South Africa	28.2	52.7	56.2
USA	20.2	24.8	24.6
<b>TOTAL (all nationalities)</b>	<b>25.1</b>	<b>33.3</b>	<b>37.1</b>

Source: Work Permit UK

No Equality Impact Assessments were applied to work permits by UKBA until the publication of the statement of intent for the new tier 2 (UKBA, 2008). However, work permits are being controlled more strictly, and feminised occupations such as senior carers have also seen their non-EU workforce being targeted as not complying with the criteria for extending work permits based on skills and salaries. The Home Office had argued that few care homes were using the level of skills required for a work permit; that is, at least NVQ 3, three years experience and staff paid at least £7.02 per hour or the equivalent of £14,000. The tightening-up is likely to have stemmed from a belief that the British and an expanded EU labour force would be able to supply the needs of such jobs. However, unlike the HSMP migrants, the BIA conceded substantial transitional measures in the face of opposition from employers, trade unions, lawyers and campaigns by carers to prevent the deportation and loss of

up to 20,000 care workers. The first concession (13 August 2007) waived the skills criteria but this still left the problem of pay; the second (December 2007) waived both the skills and pay requirement for those in the UK prior to 31 December 2003 and in effect enabled them to qualify for indefinite leave to remain (ILR). It also allowed those who have arrived more recently to change employers in order to find employment that pays the required amount. The last concession announced on 18 March 2008 stated that applications for extensions of permits up to six months after the expiry date of the permit would, in the light of these transitional measures, be considered with discretion and would remain in place until the new tier 2 was implemented at the end of that year<sup>4</sup>.

Ahead of the implementation of the new measures, there is evidence of emigration from Wales to England, where wages are often higher (BBC Wales 30 June 2008, (<http://news.bbc.co.uk/1/hi/wales/7480356.stm>). This would suggest a sub-national and regional dimension to the determination of the criteria for tier 2, especially salary levels.

The statement of intent for tier 2 was published on 6 May 2008. Tier 2 included three groups of applicants – general, sports and ministers of religion, and intra-company transfers. Two groups lost a specific route of entry: those on work training (4,500) and researchers (2,800); it was believed that many of the latter would continue to qualify under tier 2. Employers would act as sponsors, for which they required licences and would be able to employ migrants in shortage occupations to be determined by MAC as well as those who pass a RLMT and Intra-Company Transfers (ICT). For those needing to pass the RLMT, jobs would have to be advertised for two weeks at a Jobcentre, or one week for jobs at more than £40,000 per annum. All migrants would have to have a Biometric Identity Card, and have adequate maintenance (10 points) and language ability (10 points). Tier 1 migrants (those seeking an extension and post study) would be able to switch into tier 2 without fulfilling the RLMT requirement as long as they had spent six months in their employment. Table 2.7 sets out the points allocated on the basis of different types of job, qualifications and earnings.

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<sup>4</sup> See [www.ecademy.com/module.php?mod=list&lid=124417](http://www.ecademy.com/module.php?mod=list&lid=124417)



**Table 2.7 Tier 2 criteria**

<b>Type</b>		<b>Qualifications</b>		<b>Earnings</b>	
	<b>points</b>		<b>points</b>		<b>points</b>
Shortage	50	NVQ3+	5	£17,000–£19,000	5
RLMT	30	BA/MA	10	£20,000–£21,999	10
ICT	30	PhD	15	£22,000–£23,999	15
				£24,000+	20

UKBA argued that the intention was to better protect the resident labour market at the lower end of the earnings spectrum. Historically, the new salary levels would have ruled out about 10 per cent of work-permit holders who would no longer qualify at the £17,000 threshold. It is also estimated that, at the £20,000 threshold, about 2.5 per cent of ICTs would be excluded and 29 per cent of those in the general category. In future the only way the salary requirement can be mitigated is through inclusion on MAC's shortage list. In reality, without this, the only way someone can enter through tier 2 without a PhD is by earning over £20,000, which is thus the effective minimum salary for those not in a shortage occupation. Scotland has an additional shortage list to that of the UK, thus modifying the impact of immigration regulations.

The determination of salary levels raises the issues of regional disparities in salaries, especially in the private sector, and of stipulating a unified salary scale for the UK. There are considerable differences between London and the south-east and the rest of the UK. For example, the living wage in London, which was £7.02 until raised by the Mayor of London, Boris Johnson, to £7.45 per hour, is well above the minimum wage of £5.52 per hour (as from 1 October 2007). This disparity is highly relevant in relation to certain undervalued and under-remunerated skills, as has been detailed in relation to carers, and more in some low-wage regions such as Wales than in others.

However, MAC (2008a) seems not to recognise the impact of the gender pay gap and discrimination in the labour market when it states that earnings are likely to be, on average, an excellent proxy for skill: 'A rational employer would not pay an employee more than the value of their productive output. Equally, an employee would not accept less, because he or she would be able to secure a higher wage with a different employer' (p 12). Yet rational employers and employees have offered and accepted less than an appropriate salary in the care sector. MAC has based its recommendations on three principles: whether an occupation is skilled (proportion of those with NVQ3+ in the four-digit occupational group used for job classification) and average earnings, shortages, and what is sensible (taking account of other means to fill shortages, such as up-skilling UK workers or using EEA workers). These top-down measures were complemented by bottom-up assessments conducted through discussions with the Skills Councils and regional visits.

However, the MAC methodology for designating shortage occupations may be

problematic for occupations with genuine shortages relying on relatively low-paid and formally less-skilled labour. The Labour Force Survey (LFS) shows that, among care assistants and home carers, only an estimated 33 per cent have NVQ3+ compared to the 43.5 per cent average for British workers. For care homes to employ non-EEA workers within this model, they might have to reclassify their staff as nurses and nursing auxiliaries (49 per cent with NVQ3+) and pay higher wages. However even this is unlikely to be effective since the rate for a RCN grade D nurse in 2006/7 was equivalent to about £18,000 per annum<sup>5</sup>. It seems unlikely that British and EU workers will fill all the gaps, especially with the likely trends in A8/A2 immigration (see Chapter 1). The other route, which for the time being is suspended, would be to open up tier 3. However, given the differential rights associated with this tier, placing carers in it represents indirect gender discrimination due to the low evaluation of feminised skills and consequent low salaries. In addition, given the nature of care, the guest-worker dimension of tier 3 is not suitable for maintaining a continuous care relationship, unlike seasonal agricultural work. For employers, too, it would make additional demands in relation to staff retraining.

The emphasis on skills measured by qualifications may also restrict expansion in male-dominated sectors, such as catering, where labour shortages have arisen as the second generation of earlier migrants of Bangladeshis and Chinese do not wish to take over businesses or work in the sector (Williams, 2008). The abolition of sector-based schemes for catering and the mismatch between skills required for tier 2 and those of the sector are likely to pose many problems in the future. These examples highlight the existence of skills shortages which do not fit easily into the criteria drawn up for tier 2.

In a study published on 9 September 2008, MAC (2008b) identified 192 skilled occupations of which it designated 19 as shortage occupations in the UK, with an additional four in Scotland<sup>6</sup>. Two of the UK occupations are discussed above as ones which might have difficulty recruiting but might present problems in being recognised as shortage areas in terms of criteria. MAC's resolution has been to stipulate a minimum salary level of £8.10 for chefs and cooks and £8.80 per hour for senior carers. The latter has been criticised by the Home Carers Association (BBC, 9 September 2008), which commented that the pay required was far above the medium level paid within care homes for senior carers. The Royal College of Nursing (11 September 2008)<sup>7</sup>, in its response, wished the Government to consider the

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<sup>5</sup> See [www.ecademy.com/module.php?mod=list&lid=117538](http://www.ecademy.com/module.php?mod=list&lid=117538)

<sup>6</sup> These are nurses in care homes for the elderly, occupational therapists.

<sup>7</sup> See [www.medicalnewstoday.com/articles/120981.php](http://www.medicalnewstoday.com/articles/120981.php)

adverse impact of the recommended changes on the care sector in general and to put back all categories of nursing onto the shortage list.

The health sector report commissioned by MAC (Bach, 2008) concludes that it is necessary to think of future shortages when it may not be possible to attract personnel given global shortages. MAC has stated that it will review some occupations by March 2009, including a number from the health sector, social work, care assistants, home carers, and nursery, primary and secondary teachers.

## **2.6 Equality Impact Assessment**

In its EIA, UKBA considered that the potential impact on all seven equality groups was minimal but, where there were negative effects, 'there are strong policy reasons for them, namely to ensure that the immigration category fulfils its aim of selecting the people who will succeed as skilled migrants and be contributing to the growth and productivity of the UK without displacing British workers'.

**Race:** As for tier 1, the Home Office is exempt from the general duty of Section 71 of the Race Relations Act 1976 to promote equality of opportunity between persons of different racial groups in carrying out its immigration and nationality functions (see discussion about tier 1). It is still required to promote good relations between groups, but UKBA considers that the introduction of tier 2 (General) will not make it harder for non-EEA nationals of certain countries than for those of others to apply and be successful. As with tier 1, UKBA has used nationality as a surrogate for race. It states that the monitoring of work permits since January 2006 to December 2007 has shown there has been little change in the pattern of initial applications, although total applications approved were slightly down from 144,970 in 2006 to 131,072 in 2007. The top 10 nationalities for work permit applications remained the same in 2006 and 2007: Australia, Canada, China, India, Japan, Malaysia, Pakistan, South Africa, Philippines and United States. However, some of the nationalities tended to earn disproportionately less than £17,000. UKBA suggests that this might be overcome by placing the lower-paid occupations on the shortage list (but see previous comments on criteria being used by MAC to determine the shortage list). It is likely that the new tier arrangements will have an uneven impact in terms of nationality and race, particularly with the appropriate annual salary being set at the high level of £24,000.

**Gender inequalities:** These too, are discussed at length in the EIA. The number of permits granted to women as a percentage of the total has declined from 36 per cent in 2005 to 32 per cent in 2006, probably because of the fall in health professionals and associate professionals in particular (the latter having dropped from 39.9 per cent of total permits in 2005 to 24.7 per cent of permits in 2006) (Salt, 2007). The assessment itself excludes from consideration both the difficulties some groups may have in accessing this tier due to social, educational and economic inequalities in

countries of origin and the discrimination that may be faced in the UK workplace. The evidence provided in the EIA amply demonstrates the gender pay gap, whereby in 2005 the average hourly wage for women was £11.67 and £14.08 for men; a gap of 17.1 per cent and a form of indirect discrimination. We should note that globally the gender gap averages about 16 per cent and is often higher in wealthy countries such as the United States and Canada (International Trade Union Confederation, 2008). In addition, in the UK, the gender gap increases with educational level and is higher in female-dominated occupations (over 20 per cent in education and health and social work), exactly the kind of employment covered by tier 2.

UKBA outlines further evidence of the gender gap in the UK. Forty-two per cent of women are employed part time, compared to nine per cent of men. Women take more responsibility for their family and take time out for having children, hence making it more difficult for them to match the salaries achieved by comparable men. UKBA sees tier 2 as a route where the traditional skills and rewards achieved by women can be recognised, unlike the patterns prevailing amongst the highly skilled in tier 1.

It adds that those who cannot enter through the RLMT route may be able to do so through the shortage list. As already noted, this may not be sufficient for those occupations where the skills themselves are inadequately recognised and remunerated, as with carers and lower-grade nurses. As feminists have for long argued, care is fundamental to the maintenance and wellbeing of society, as much as the financial and technological skills rewarded through tier 1, but it is not sufficiently recognised. The Joint Council for the Welfare of Immigrants suggested that points should be awarded for 'essential skills' rather than by placing greater value on certain skills or sectors of work that are highly valued by society (UKBA, 2008b).

**Disability:** The main concern in relation to disability is with accessibility, and specifically the on-line application system. Accessibility will be addressed by building the new IT system to comply with the industry standard W3C 'Web Content Accessibility Guidelines 2.0'. It is argued that following these guidelines will make content accessible to people with a wide range of disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech difficulties, photosensitivity and combinations of these. Stakeholders raised general concerns that the English requirements did not take into account applicants who might have learning difficulties.

**Gender identity:** Stakeholders expressed serious concerns over data collection in this area. UKBA's response was that it may be inappropriate to collect quantitative

data in this area, due to sensitivities about this issue in a potential migrant's country of origin. Stakeholders identified that not all sports governing bodies have policies which comply with the Sex Discrimination (Gender Reassignment) Regulations 1999.

**Sexual orientation:** Stakeholders did not identify any adverse or disproportionate impacts beyond those mentioned already.

**Age:** Stakeholders did not identify any adverse or disproportionate impacts. This tier does not use age as a points-scoring attribute and has removed the requirement that the migrant needs three years experience in the job at skill level NVQ 3 or above. This makes it easier for younger applicants to satisfy the criteria.

### **Extension of work permits**

Tier 2 is broken down into three plus two years. At the end of the first three years, an extension will have to be applied for. The migrant will need to have been issued with a Certificate of Sponsorship in respect of their continued employment before they can make an application for an extension of stay; and the job will need to continue to be at a level of NVQ3 or above and be paid at or above the appropriate rate.

Where a skilled migrant has been given leave to enter the UK to take a job on the shortage occupation list and is applying for an extension to remain in the job, but that job is no longer on the shortage list, they will need to meet the points criteria in place but will not be required to meet the RLMT. However, if they are seeking to change employment, they will have to pass the RLMT. Gender inequalities of pay and familial responsibilities may raise difficulties for some women where the particular occupation is no longer on the shortage list. Transitional arrangements will allow current work permit holders applying for leave after the introduction of the scheme to have a Certificate of Sponsorship issued by a licensed employer; confirming that the job is at or above NVQ3 level and will be paid at or above the appropriate rate for the job at the time of extension (UKBA, 2008a).

At the end of the three plus two year period, a tier 2 migrant can obtain permanent resident status and be free to apply for employment without the need for a sponsor.

**Tier 5:** This tier (Statement of Intent published May 2008) was implemented on 27 November 2007 and covers two broad areas: youth mobility and temporary work.

The **Youth Mobility Scheme** (YMS) replaces a number of schemes such as the Working Holiday-Maker, Japan Scheme and au pairs from outside the EEA, which disappears entirely, leading to the loss of 1,000 entrants (2006/7). It applies to individuals between 18 and 30 who may work full time for the entire two years in any

area except for business, sporting professions or as trainee doctors, a major change from the previous policy which only permitted the applicant to work for up to one year full time. A spouse cannot enter as a dependant but must do so in his/her own right. Applicants cannot bring in dependants. It is far more restrictive in its country coverage, being based on a risk assessment of the country and reciprocity. Only low-risk countries without visa regimes may apply. According to UKBA, most applications from countries requiring visas are currently rejected. Countries in the scheme must also have a reciprocal agreement and act as sponsors. This favours wealthy countries such as Australia, Canada and New Zealand. Deemed sponsors for countries with a low risk will be available. A minimum of 1,000 places will be offered by participating countries and sponsorship for the most popular and secure countries will be based on the numbers of UK nationals going to the country the previous year. It is estimated that about 6,000 fewer applicants will enter under the scheme (from 43,700 in 2006/7 to about 37,700 in future years). Maintenance of £1,600, or the equivalent of two months' maintenance, must be met. No switching to other tiers in the PBS is permitted.

**Temporary workers** cover five categories: creative and sporting, and voluntary workers, both for 12 months; the other three (religious, exchange under Government-authorised schemes and international agreement) have 24 months. The international agreement category includes private servants in either the household of a member of staff of a diplomatic or consular mission who enjoys diplomatic privileges and immunity within the meaning of the Vienna Convention on Diplomatic Relations, or the household of an official employed by an international organisation who enjoys certain privileges and immunities under UK or international law, intends to work full time in domestic employment and will not take up any other form of employment for the sponsor other than as a private servant in the specified household and will leave the UK once their leave has expired at the end of 24 months. The time limitation for this latter category is not related to how long their employer will remain in the UK.

Since 2006 there had been discussions about the current Overseas Domestic Workers (ODW) scheme which the Home Office had wanted to place in tier 5, treating ODWs as visitors with six months' right of residence with their employer. Following campaigning by Kalayaan, Oxfam, trade unions and women's organisations, these proposals have been shelved for the next two years. Domestic work is not recognised as a sector warranting either work permits or sectoral permits but employers may bring in domestic workers from abroad if the person has previously worked for them for 12 months. About 17,000 enter each year under this scheme. By 2006, 5,680 had requested an extension of leave to remain as a domestic worker in a private household; that is, about six per cent of the total. At present ODWs may change from an exploitative or abusive employer as long as they

remain employed within a household. Had this scheme been incorporated into tier 5, they would probably have lost the right to change employers and no longer be formally recognised as workers in the UK, despite having been issued a visa to travel here for this purpose. This would have vastly increased the power of abusive employers and the incidence of forced labour in the UK (Wittenburg, 2008).

### **Impact Assessment of Tier 5**

For this scheme, UKBA (Impact Assessment dated 2 May 2008) has set out which criticisms it considers are 'beyond the scope of the immigration system to address'. The issues that are excluded from serious consideration include under race and belief (subsumed under one major heading) that relative earnings make it difficult for applicants from some countries to acquire the amount of maintenance required and that some religions may be favoured for the YMS. In relation to the latter, stakeholders commented on the disqualification of certain countries and that this could be interpreted as indirect (and arguably direct) race discrimination. Overall, the stricter conditions, including the maintenance requirement, render it particularly difficult for those from less wealthy countries to benefit from the scheme. UKBA in this case switched from nationality to race in its response by stating that 'there are no YMS requirements relating to race'.

Stakeholders have raised a number of issues which touch upon the intersectionality of the different equality strands. For gender, a criticism was made of the refusal to allow dependants, especially children. Some mentioned that in some countries women tended to have children at a young age. Barring dependants may have a disproportionate effect on women who are likely to be the primary carers. Again, their response of saying that not being able to bring in dependants applied to both men and women, ignored this point. A stakeholder had made the point that in many countries couples had children when under 30 years of age and therefore were excluded from the scheme. The response from UKBA was that to include this category would not be in keeping with the ethos of the YMS.

On age, UKBA rejected criticisms of the upper limit of 30 years for the YMS which it maintained was the prerogative of the Government, while stating that those under 18 years might be vulnerable to exploitation.

On disability, as with the other tiers, UKBA stated that it would seek to make the content of forms accessible to a wide range of people with disabilities and that since disability data is not yet available on users of the system, they would try to take account of any data generated during the monitoring and review of the system. On gender identity and sexual orientation, a stakeholder expressed concern about difficulties faced by transsexual people owing to severe employment discrimination

which they may suffer in many countries and therefore not be able to accrue the maintenance required. No data is collected on either aspect.

### **Evaluation of the PBS**

A proper evaluation of the equality implications of the PBS requires systematic analysis of the impact and outcomes of the scheme which has not been undertaken for the various tiers. The Canadian Gender-Based Analysis (GBA), applied by CIC to the Immigration and Refugee Protection Act, may offer one example. Status of Women Canada (2002) defined GBA as:

... a process that assesses the differential impact of proposed and/or existing policies, programmes and legislation on women and men. It makes it possible for policy to be undertaken with an appreciation of gender differences, of the nature of relationships between women and men and of their different social realities, life expectations and economic circumstances. It is a tool for understanding social processes and for responding with informed and equitable options.

It compares how and why women and men are affected by policy issues. Gender-based analysis challenges the assumption that everyone is affected by policies, programs and legislation in the same way regardless of gender, a notion often referred to as gender neutral policy (cited in Kofman et al, 2005, pp 35–6).

A similar kind of analysis could usefully be applied to understanding the implications of other social relations and differences, and the interactions between them (see Chapter 4), as for example between gender, nationality and age, as discussed in relation to tier 1.

## **2.7 Immigration, permanent residence and citizenship**

The rapid increase and turnover of immigrants, especially in localities which had hitherto not experienced much migration, and the reaction to the disturbances in summer 2001 and subsequent bombings in 2005 and 2007, have led to a debate nationally about the level of immigration, national identity and citizenship. It has also resulted in pressure from local authorities for greater resources to meet the additional use of services (Convention of Scottish Local Authorities (COSLA), 2008; Local Government Association, 2007; Welsh Local Government Association, 2008). Family migration has also risen up the political agenda with several consultations on marriage and pre-entry requirements for spouses since late 2007 and, for the first time in decades, recognition of it as a specific form of migration with distinctive rights and path to citizenship (Kofman et al, 2008).



Two documents were initially published on the path to and the nature of citizenship. *The Path to Citizenship: Next Steps in Reforming the Immigration System* (Home Office, 2008) focused primarily on the immigration statuses that precede citizenship and proposed three key routes to naturalisation as a British citizen or permanent residence:

- Highly skilled and skilled workers under the points-based system, and their dependents (economic migrants).
- Family members of British citizens and permanent residents.
- Those in need of protection (refugees and those granted humanitarian protection).

It interpreted citizenship as a journey rather than a single step, and involved three stages:

- Temporary residence.
- Probationary citizenship: a new time-limited period (one year) between temporary residence and British citizenship or permanent residence after a further three years.
- British citizenship/permanent residence.

At each stage, the journey would incorporate appropriate requirements that determine whether a migrant could progress:

- English language requirements.
- Paying tax and becoming self-sufficient.
- Obeying the law.
- Joining in with the British way of life.

These proposed reforms would not affect the rights of EEA nationals. The Draft (Partial) *Immigration and Citizenship Bill* (UKBA, 2008e) is to include all the relevant proposals as part of a root and branch simplification and reform of immigration and citizenship law. The Bill, announced in the Queen's Speech at the opening of Parliament on 3 December 2008, has only been published in part, with about one third of its content missing. It deals with provisions on permission to enter and stay in the UK, and on expulsion. Criteria for acquisition of naturalisation as a British citizen cover those entering through economic routes, dependant relatives of British citizens, partners of British citizens and those experiencing bereavement or domestic violence. An extremely complicated geometry is outlined for each category's progression to citizenship, including deduction of years for voluntary activities or additional years for infringements.

The accompanying explanatory paper *Making Change Stick* (UKBA, 2008f) notes that the proposals on restricting access to benefits, housing and other services (to be restricted to permanent residents and citizens) are to be published later in the second part of the Bill. Other parts not yet published but likely to be of importance in terms of

equalities and human rights include proposals on:

- Reforming the Common Travel Area arrangements (likely to have a significant effect on Irish migrants).
- Powers in relation to medical examinations at ports, collection of biometrics etc for identity purposes, and powers to force the provision of information by banks, local authorities and others (UKBA, 2008f).

The second major document, the Goldsmith Review (2008), *Citizenship: Our Common Bond*, proposed a number of measures to enhance the meaning and significance of citizenship overall, including some that would affect migrants and equality:

- The residual categories of citizenship should be abolished, allowing access to full British citizenship to people who would qualify for those categories.
- Only citizens should have the fullest rights to political participation (leaving EU nationals the right to vote in local elections, but removing the right of Commonwealth citizens to vote in the UK).
- Reform of the category of permanent resident: permanent residency blurs the distinction between citizens and non-citizens.
- Reform of the law of treason to make the duty of allegiance relevant to modern conditions.

Other proposals focused more on citizenship as it affects UK nationals, in order to promote a shared sense of belonging for all and encourage citizens to participate more in society.

Both documents presented methodological problems. *Path to Citizenship* identified a number of supposed problems with migrant integration on the basis of a relatively small number of participants in 'public listening sessions', while the Goldsmith Report did not adequately take into account the richness of the studies it commissioned. They both recommended reinforcing the divide between citizen and non-citizen, following several decades in the UK and in Europe when the distinction between the two has become blurred as a result of expanding rights for long-term residents (sometimes known as denizens) (Hammar, 1990; Rutter et al, 2008).

While briefly acknowledging the increasingly diverse flows of migrants (especially the increasing number of Europeans), these reviews fail to analyse the implications of increasing levels of mobility and differential access to entitlements of specific groups of migrants. Recent trends highlight an increase in both numbers and circulation: young Europeans, particularly from central and Eastern Europe, working holiday-makers, and students. Among work permit holders, there are several sectors which operate on a circulation of workers, such as IT, or which have recently experienced

severe cutbacks, such as nurses and doctors. The tightening-up in the requirements for the extension of HSMP permits in November 2007 will also have the effect of creating temporary migrants among those who fail to meet the salary levels by the time of their renewal (see discussion of tier 1).

The impact of these new measures for economic migration and settlement is quite different for EU and non-EU citizens. Most non-EU workers need to qualify as highly skilled migrants, or have a job offer from a UK employer or be transferred by their company to the UK. Since April 2007, non-EU migrants have also had to fulfil further conditions in order to obtain Indefinite Leave to Remain: namely, to demonstrate a specified level of English language ability and/or pass the Life in Britain test. Currently, Indefinite Leave to Remain may be granted after five years of continuous residence for those granted entry as workers or refugees and their family members and after two years for those who have entered as family members of British citizens and those with settled status. Especially for family members from non-English-speaking countries, the probationary period is likely to last more than two years while they reach the required standard of English competence (generally ESOL level 3). In future, the level of English required for tier 2 applications will exclude some of those who currently would have obtained work permits, estimated at about five per cent of current applicants (UKBA, 2008b). The consultation on whether to introduce an English test as a pre-entry requirement for spouses (which will, again, not apply to EU nationals) showed that the majority of respondents were against it on the grounds that it was more effective and easier to learn the language once in the UK (UKBA, 2008c). EU migrants do not have to learn English to obtain the equivalent permanent residence status, which they get automatically after five years legal residence.

Non-EU migrants (except refugees and those granted discretionary or humanitarian status and small numbers of people covered by reciprocal arrangements with some non-EU European countries) do not have access to public funds until they obtain ILR. Workers from the eight accession countries have rights to access some benefits such as child tax credits, and housing services during the first year while registered on the WRS (but, unlike other European workers, they lose these if they cease to be employed, except in Wales). Table 2.8 sets out the numbers of migrants receiving grants of settlement and recognition of permanent residence in 2006, by continent of origin. Migrants from Asia accounted for 50 per cent of the total, those from Africa 23 per cent, and those from Europe 15 per cent.

**Table 2.8 Grants of settlement and recognition of permanent residence, 2006, excluding EEA and Swiss citizens**

Area	Settlement	Permanent residence	Total
Europe	14,600	5,680	20,280

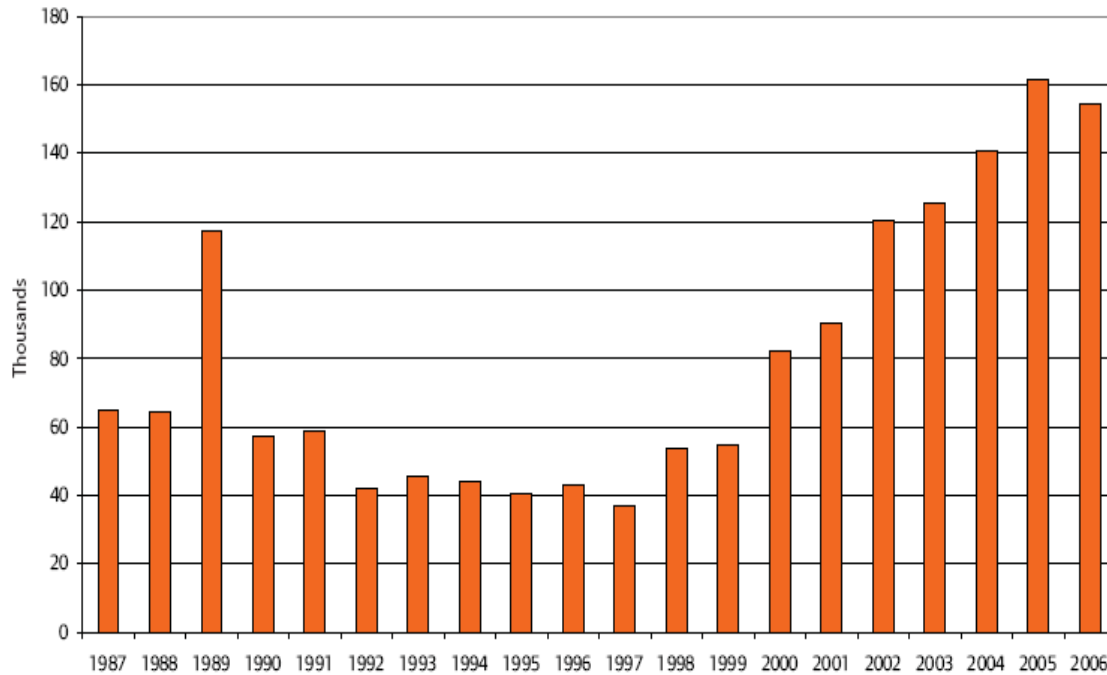
Americas	11,280	495	11,775
Africa	28,820	1,105	29,925
Asia	63,935	1,370	65,305
Oceania	3,815	85	3,900
British overseas	130	5	135
<b>Total+</b>	<b>122,595</b>	<b>8,775</b>	<b>131,370</b>

Source: Home Office, 2007a.

Note: +Total includes unknown nationalities.

However, permanent residence is granted to non-European family members of EEA nationals who have been legally resident in the UK for the required period (usually five years). It is actually conferred automatically, so the numbers on Table 2.8 are a large underestimate: they include only those who have applied for documents to prove their permanent residence (such as those in insecure employment, those who may have trouble convincing others of their nationality or rights, such as black and ethnic minority Europeans, and non-European family members of European nationals). Settlement is granted to others who have completed the required number of years as explained above.

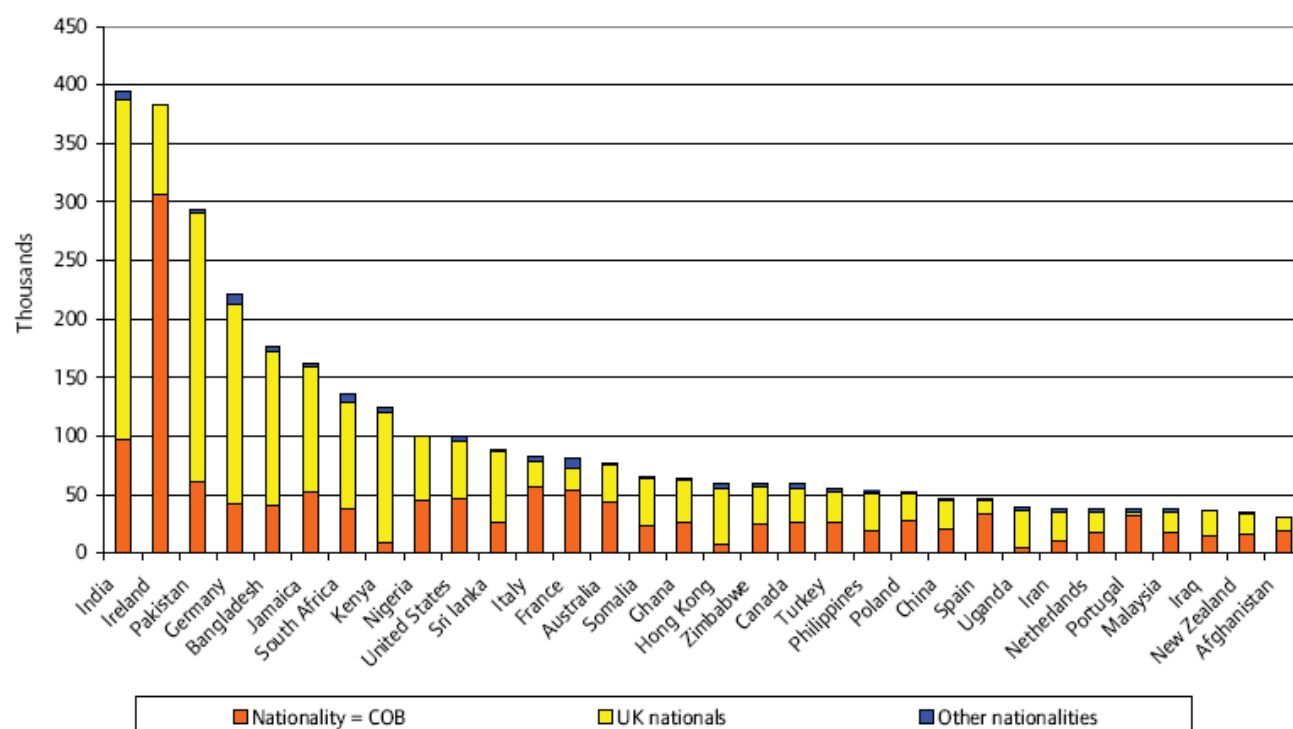
The number of migrants opting for citizenship has markedly increased in the past decade in line with increasing levels of immigration (Figure 2.1). The dip in 2006 may be attributable to the introduction of English and Life in Britain tests at the end of 2005.

**Figure 2.1 Applications granted for British citizenship, 1987–2006**

Source: Home Office, 2007b.

However, the diversity of immigration is mirrored in the extent to which migrants from different nationalities take up citizenship. Figure 2.2 shows the citizenship held by migrants by country of birth. Among the largest groups, it is only the Irish where a large majority continue to hold the citizenship of their country of birth, unlike Indians, Pakistanis, Bangladeshis, Jamaicans or Kenyans. Germany is anomalous due to the numbers of children of service personnel who were born there.

**Figure 2.2 Foreign-born population resident in the UK for longer than five years, by nationality**



Source: LFS, 2007, Q2 and IPPR calculations.

Note: The graph shows the total population that arrived in the UK before 2002 for given countries of birth, broken down by nationality – either the nationality of their country of birth, British nationality or other nationality. The LFS data does not account for dual nationality and therefore this graph shows the nationality that the interviewees give during the survey's data collection.

Table 2.9 enables us to see in more detail the number of years of residence for British citizenship to be taken up by different nationalities, grouped regionally. The average of 60 per cent take-up cited in many reports masks considerable variations. In general, it can be said that European migrants, and the Irish in particular, have low rates of take-up. The Irish have had all the social and political rights for some time. Similarly, migrants from other developed countries have lower than average rates of take-up. Some variations may reflect national particularities: some countries, for example, do not allow dual citizenship (Kenya, Malaysia), and many migrants may wish to maintain their original citizenship because they intend returning to their country of origin upon retirement, or hope to spend significant time there, or because local law, for example, bars the inheritance of land by non-nationals. However, except for the Irish, where there is little movement from those resident 6–10 years to those resident 11–20 years, all other regions demonstrate at least almost a doubling of percentages. For migrants from Africa, the Indian sub-continent and the Middle East, the take-up in the initial period of 6–10 years is already almost a half, and over two-thirds for those in the UK from 11–20 years, a figure that is well above the average for all nationalities.

**Table 2.9 Take-up rates of British citizenship by region of birth, 2006**

Region of birth	Number born outside UK	British citizens born outside UK	% citizens after 6–10 years	% citizens after 11–20 years	% citizens after 21+ years	Total % citizens after 6+ years
Europe	1,967,000	576,000	19	38	51	42
EEA excl Irish Rep	1,227,000	412,000	15	42	68	52
Irish Rep	424,000	87,000	6	7	25	21
Rest Europe	316,000	77,000	30	54	69	45
Americas	643,000	310,000	26	52	76	62
of which Caribbean, Central, South	396,000	231,000	26	58	83	70
Canada, USA	247,000	79,000	27	45	56	47
Africa	1,109,000	663,000	37	68	91	70
Indian sub-continent	1,075,000	559,000	47	73	87	78
Middle East	218,000	107,000	47	80	81	72
Rest Asia	599,000	239,000	31	60	81	62
Oceania	173,000	59,000	21	39	68	49
Other	32,000	13,000	-	-	-	-
<b>Total</b>	<b>5,783,000</b>	<b>2,512,000</b>	<b>31</b>	<b>58</b>	<b>72</b>	<b>60</b>

Source: UK LFS January–December 2006.

Note: The figures are only estimates. The LFS does not identify those holding dual citizenship.

Two of the key proposals in the *Path to Citizenship* are the introduction of a probationary year after five years (for workers) or two years (for family members of British citizens and those with settled status) of residence, and a separate route for those progressing to citizenship as opposed to those who only wish to have permanent residence. The latter will effectively be forced to remain in temporary residence for a further three years before acquiring permanent resident status. What is called 'probationary citizenship' is in reality an extension of a temporary period during which migrants will continue to be denied access to public funds and benefitting from UK/EU fees for higher education. This would mean some migrants would be here for a total of eight years while being denied access to a wide range of benefits despite paying National Insurance and taxes. Additionally, the proposal suggests that unemployment during the probationary period will lead not only to refusal of citizenship, but also to removal from the UK.

None of these conditions applies to EU migrants, whose entitlements are guaranteed as part of their Treaty rights and who can also vote in local and European elections. Hence the 'carrot' to take up citizenship remains weak for EU citizens, as is the case currently.

Setting up an 'architecture' made up of new stages extended over a longer period of time, with fewer rights available to migrants as they journey across temporary residence, probationary citizenship and eventually full citizenship or permanent residence will complicate the paths to citizenship rather than simplifying them, as is claimed by the Green Paper. The majority of respondents to a MORI Poll and consultation paper were against this additional stage (UKBA, 2008d). The assessment of this Bill (UKBA, 25 June 2008g) lists the analysis of potential impacts to be undertaken. It states that race and disability Equality Impact Assessments are to follow, but nothing is noted for gender. It is not envisaged that there will be an assessment for human rights.

While all northern European countries have tightened their conditions for gaining permanent residence, the UK proposals would make it more difficult than in a number of other European states (Medjoubi et al, 2008). For example, in France, permanent residence is obtainable after five years and subject to adequate knowledge of French and French values. Though Australia has increased its period of pre-citizenship from two to four years, migrants are not subjected to further post-entry employability tests as they are in the UK for tier 1 and tier 2. In traditional societies of immigration, permanent migrants are accepted immediately as future citizens. Thus new proposals creating additional obstacles are likely to make the UK far less attractive for skilled migrants and their families.

There seems to be in both reports an assumption that making the conditions for acquisition of citizenship more difficult and strengthening symbolic aspects will respond to perceived problems of a sense of belonging and attachment. A study by Heath and Roberts (2008) showed that ethnic minorities, not surprisingly, tend to have a dual rather than exclusive sense of belonging and that those born in non-Commonwealth countries have a weaker sense of belonging, probably because they are more likely to be recent arrivals and have had few previous colonial connections with the UK. Sense of belonging is strongly associated with length of stay, and thus circulation and high turnover will also result in a larger population with a weaker sense of belonging. It is also markedly associated with age, and lower for the more socio-economically marginal and those more critical of the current political order. Heath and Roberts also concluded that it is important not to focus exclusively on new arrivals (pp 26–7) and that we need to keep in mind second generation minorities, many of whom suffer substantial ethnic penalties in the labour market and



problematic relations with the police and criminal justice system. Youth of Black Caribbean origin have a significantly weaker sense of belonging to Britain than any other group. It should be noted that there is no gender analysis in this study. Secondly, given the various differences, they stress that it is essential to think about what kind of British identity one would wish to foster rather than assume there is a given identity. A report on the relationship between settled and recent migrant populations in six localities across the UK concluded that 'its findings go against the grain of the idea that we need a fixed notion of Britishness and British values' (Hickman et al, 2008).

## **2.8 Conclusions**

As we have seen, both migration and the paths to citizenship are diverse. It is therefore almost meaningless and highly problematic for policy-making to be based on an average pattern or homogeneity of immigration. Even within the UK, there are important differences in attitudes to migration, as underlined by interviews with COSLA and the Scottish Executive. Scotland, unlike England, is actively trying to attract more migrants, seeing them as important not only for economic development but also to meet the 'demographic challenge', a view that has been expressed at Migration Impact Forum meetings.

One of the key differences in mobility rights and access to benefits for the individual and their family members is that between European citizens and non-EEA nationals. And yet there is confusion in the debates and Government proposals around this. Some offer the possibility of radically reducing immigration levels, but completely fail to acknowledge that the migrants who have had the greatest local impact on services and communities recently have been from the new accession countries and who, except for Bulgarians and Romanians, are not affected by the points system. Thus any capping of numbers or setting of quotas could only affect a certain (small) proportion of migrants.

The citizenship discussions themselves seem to reflect a failure to analyse cause and effect. On the one hand, once the statistics on who takes out citizenship are analysed, it becomes obvious that low take-up rates are more likely to reflect differences in rights than the eagerness or otherwise to settle, and that all the proposals made are much less likely to affect the increasing numbers of Europeans who are settling in the UK but not becoming citizens. On the other hand, the increasing requirements the proposals intend placing on new citizens set up a model of active citizenship that bears no obvious relationship to the 'passive citizenship' most acquire by birth. The proposed pathway to permanent residence also sets up further arenas of potential discrimination, some of which may be legal, in the sense that it is simply about eligibility for services and benefits, but is hardly fair, since the

migrants so excluded will, in most cases, be paying taxes and also contributing to public services via their active citizenship requirements.

In relation to the different tiers of the PBS, we have highlighted the failure to apply rigorously the equality duties in the impact assessment studies of proposed immigration changes. The UK could benefit from the experience of other countries, such as Canada, where a gender-based analysis has been applied to immigration policy, resulting in changes to the allocation of points for the entry of economic migrants (Kofman et al, 2005).

For proper EIA, we highlight the need to:

- Use the available statistical evidence, in order to assess properly the impact on the different equality groups.
- Ensure that all data is properly disaggregated, distinguishing, for example, between EEA and non-EEA migrations.
- Allow consultations with stakeholders to be carried out well in advance of the proposed change in order to enable them to produce evidence from their own work and experience that can add to this in areas where knowledge is lacking (especially in relation to sexual orientation and disability).
- Be aware of the likelihood of producing discriminatory proposals if over-reliant on relatively uninformed focus groups or similar methods.

### 3 Statistical sources on migrant population and inequality

The use of statistics to investigate the level of inequality experienced by migrants would ideally require, first of all, a clear definition of these concepts, and then verifying the availability of statistical data matching (or strongly linked to) such definitions. The actual scenario in terms of data availability is in fact much more complex and ambiguous than this. In this chapter the availability of statistical evidence to measure and evaluate different forms of inequality and discrimination is examined.

Most British statistical sources – as is the case in all European countries – do not allow for the identification of migrants (and their characteristics) as a component of the total resident population<sup>8</sup>. Statistics on work permits and registers for specific groups of migrants (such as the Workers Registration Scheme (WRS)) only refer to a small component of the immigrant population, and do not provide detailed information on its profile. However, many major sources collect information on variables such as ethnicity, nationality and country of birth, which are generally used as a proxy to identify people with a migrant background within the wider population. Often used interchangeably, these variables identify very different groups, which overlap only to a certain extent. According to the 2001 Census, for example, only 58 per cent of people from ethnic minorities (that is, other than White British) were born outside the UK. An analysis of the Labour Force Survey (LFS) 2006 shows that 43 per cent of people born abroad were or are UK nationals (see Tables 3.1 and 3.2).

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<sup>8</sup> According to the United Nations recommended classifications, migrants consist of four categories:

- 1) Short-term migrants (a short-term migrant is a person who moves to a country other than that of his or her usual residence for a period of at least three months but less than a year except in cases where the movement to that country is for purposes of recreation, holiday, visits to friends or relatives, business, medical treatment or religious pilgrimage).
- 2) Long-term migrants who move to another country for at least a year.
- 3) Residents returning after a period working abroad.
- 4) Nomads.

None of these groups can be easily identified through available statistics. However, this review tries to identify the foreign-born population living in the UK, particularly those who entered after 2000 (recent migrants).

**Table 3.1 Population by nationality and country of birth (percentage by country of birth), 2006**

Country of birth	Nationality			
	UK	Non-UK	EU	Non-EU
UK	99.7	0.3	0.1	0.2
Outside UK	43.5	56.5	21.7	34.8
Australia	32.6	67.4	1.9	65.4
Bangladesh	64.6	35.4	0.4	35.0
China	17.1	82.9	3.1	79.7
Poland	9.9	90.1	90.0	0.1

Source: UK – MITI, Middlesex University, 2008, elaboration on LFS, 2006

**Table 3.2 Population by nationality and ethnicity (percentage by ethnicity), 2006**

Ethnicity	Nationality			
	UK	Non-UK	EU	Non-EU
White British	99.5	0.5	0.3	0.2
Other White	51.6	48.4	31.3	17.1
Indian	76.3	23.7	0.8	23.0
Pakistani	86.8	13.2	1.0	12.3
Bangladeshi	81.6	18.4	0.2	18.2
Black Caribbean	88.2	11.8	0.7	11.0
Black African	56.3	43.7	3.4	40.3
Chinese	52.4	47.6	2.7	45.0
<b>Total</b>	<b>94.1</b>	<b>5.9</b>	<b>2.2</b>	<b>3.7</b>

Source: UK - MITI project elaboration on LFS, 2006

Nationality and country of birth are often provided without a detailed disaggregation (for example, using the UK-born/non-UK-born dichotomy only). A statistical analysis which pulls together all migrants – EU and non-EU, from rich and poor countries – can tell us very little and it is therefore important, wherever possible, to disaggregate the data by national groups in order to disclose the wide diversity within the migrant population (Sales and D'Angelo, 2008). In this report, to identify this more easily, some tables identify specific populations by highlighting them. They are: Australians, Bangladeshi, Chinese, Indian, Irish, Nigerian, Poles, Portuguese and Somali.

When available, variables such as the year of entry or the address one year ago can also be used to distinguish old and new migrants.

The Census is still the statistical source most widely used in research and policy reports in Britain, because it is a universal survey, collecting data at every

geographical level. It is also relatively easy to access and widely recognised as a reliable source. However, the Census is limited by its low frequency (just every 10 years)<sup>9</sup> and, in relation to the migrant population, by the lack of nationality as a variable. Although country of birth is collected, ethnicity is still the key dimension in most publicly available datasets and is used in a large number of studies on minority groups. The traditional 16 ethnic categories, mainly based on colonial and post-colonial immigration, appear inadequate to capture the super-diversity (Vertovec, 2006) of today's Britain<sup>10</sup>.

Several statistical sources can be used to overcome the Census's limitations and can be used, on their own or in conjunction with other data, to map the characteristics of migrants. In particular, the LFS, although initially developed as a source of information on the labour market, has become increasingly useful to get an insight into the UK population as a whole (for example, in Institute for Public Policy Research (IPPR), 2007). Although the LFS is not a universal survey like the Census, it is intended to be representative of 'all people resident in private households, all persons resident in National Health Service accommodation and young people living away from the parental home in a student hall of residence or similar institution during term time' (LFS, 2006). The sample design currently consists of about 55,000 responding households in Great Britain every quarter, representing about 0.2 per cent of the national population. This does not, however, allow us to go below the regional level when looking at migrants<sup>11</sup>. The LFS data allow the tabulation of changes in different national groups among the foreign-born in the UK.

The information provided by the National Insurance number (NiNo) statistics is also of great value. Although the great majority of new arrivals apply for a National Insurance number in order to enter the labour market, a small number do so to claim benefits, and may be entitled to these soon after arrival (refugees, for example, or European nationals and their family members).

Table 3.3 shows that the total number of overseas nationals claiming out-of-work benefits within six months of registration almost halved in the five years to 2005/6, with the percentage of such claims dropping to around a quarter.

<sup>9</sup> We are now coming up the next Census, that is at the worst possible time to use old Census data.

<sup>10</sup> A consultation on user needs for ethnicity, national identity, language and religion information from the 2011 Census in England and Wales took place between December 2006 and March 2007. The review considered issues such as: categories included and excluded; collecting national identity data separately from ethnic group data; and allowing multiple responses in the ethnic group question. The responses to this consultation should inform further question development.

<sup>11</sup> The Annual Population Survey (APS) – combining results from the LFS and the English, Welsh and Scottish Labour Force Survey boosts – has been specifically designed to provide information on key social and socio-economic variables between the 10-yearly Censuses, with particular emphasis on providing information relating to sub-regional (local authority) areas. The APS data on migrant population, however, is usually limited to the UK-born/non-UK-born divide.

**Table 3.3 Overseas nationals entering the UK and allocated a NiNo, by year of arrival: People claiming an out-of-work benefit within six months of registration (thousands)**

	2000/1	2001/2	2002/3	2003/4	2004/5	2005/6
All	32.9	36.1	34.7	20.6	17.7	15.9
JSA	23.3	26.7	25.8	14.8	13.7	13.0
IB/SDA	3.3	2.9	2.8	1.9	1.7	1.4
IS	5.9	6.2	5.7	3.7	2.0	1.3
Percentage on out of work benefits	11%	12%	10%	6%	3%	3%

*Source:* 100 per cent extract from National Insurance Recording System at 14 May 2007.

*Notes:*

Figures are rounded to the nearest hundred and may not sum due to rounding.

Arrivals figures subject to change as some migrants may take several months or years between arrival and NiNo application/registration.

JSA: Jobseeker's Allowance; IB/SDA: Incapacity Benefit or Severe Disablement Allowance; IS: Income Support.

The NiNo data, however, does provide a lot of information about migration. Table 3.4, on continent of origin, shows that registrations from all areas except Africa increased in the five years to 2006/7, and those from EU accession countries rose from 17,900 in 2002/3 to 321,200 in 2006/7. Table 3.5 sets out the regions of registration within the UK, by country of origin.

**Table 3.4 Overseas nationals entering the UK and allocated a NiNo, by year of registration and continent of origin (thousands)**

	2002/03	2003/04	2004/05	2005/06	2006/07
All	349.2	370.7	439.7	662.4	713.5
Europe: EU Accession Countries	17.9	28.7	119.2	276.7	321.2
Europe: EU excluding Accession Countries	80.7	84.9	81.3	97.6	103.7
Europe: non-EU	14.8	15.8	14.1	15.5	16.3
Asia and Middle East	114.5	115.0	110.0	134.2	145.4
Australia and Oceania	27.3	24.2	23.4	32.5	33.2
The Americas	26.6	31.2	26.7	31.4	31.8
Africa	66.6	70.1	64.5	73.9	61.4
Others and Unknown	0.8	0.8	0.6	0.6	0.5

*Source:* National Insurance Recording System at 14 May 2007.

**Table 3.5 NiNo registrations of non-UK nationals 2006/7 by region and country of origin**

Ranking	Country of origin	All Regions	North-East	North-West	Yorkshire and Humber	East Midlands	West Midlands	East of England	London	South-East	South-West	Wales	Scotland	Northern Ireland	Overseas Residents
	All non-UK	713,450	13,270	51,550	41,640	41,000	48,000	53,370	244,090	80,130	41,710	17,020	52,460	19,610	9,590
1	Poland	222,760	4,120	20,190	16,390	18,190	18,600	19,840	43,420	24,400	17,560	6,780	23,140	8,900	1,230
2	India	49,330	1,680	3,100	2,260	3,280	4,140	3,360	18,550	5,340	1,920	1,400	3,460	520	350
3	Slovak Rep	28,840	300	2,660	2,750	2,240	2,830	2,570	4,910	3,520	2,080	910	1,730	1,810	540
4	Pakistan	25,320	430	3,460	3,310	890	3,010	1,390	8,800	2,120	330	350	1,180	40	10
5	Australia	24,400	190	710	480	390	430	920	15,000	2,110	910	260	1,690	170	1,140
6	Rep of Lithuania	24,110	230	1,050	1,160	1,800	1,070	3,120	8,330	1,930	1,090	400	1,070	2,560	300
7	France	20,230	290	840	580	530	830	990	10,640	2,160	910	320	1,160	210	800
8	South Africa	16,920	140	650	520	620	550	1,190	7,830	2,900	950	180	770	110	520
9	Germany	15,240	230	860	490	520	740	940	6,510	1,980	870	290	990	150	680
10	China P. Rep	13,150	750	1,440	960	770	960	830	2,700	1,530	860	500	1,590	240	30
11	Italy	12,950	160	530	310	320	290	700	7,700	1,240	580	140	570	80	330
12	Nigeria	12,470	230	970	510	500	650	790	6,350	930	250	220	1,020	40	10
13	Czech Rep	11,750	280	1,410	810	670	700	830	2,340	1,640	980	350	1,120	470	160
14	Rep of Latvia	11,090	150	710	1,230	1,320	1,050	1,060	1,900	1,220	550	160	970	600	180
15	Portugal	10,890	110	630	330	650	480	1,570	3,910	1,290	900	290	270	410	60
16	Hungary	10,880	120	740	430	660	630	860	3,720	1,500	680	330	760	300	150
17	Spain	10,770	140	670	380	260	340	570	4,320	1,280	790	230	1,070	140	590
18	USA	10,660	140	420	340	270	310	860	5,050	1,340	460	170	1,010	150	150
19	Bangladesh	10,120	280	750	380	280	810	720	5,380	740	320	240	180	40	10
20	Rep of Ireland	10,030	160	660	260	240	350	530	3,550	840	360	310	1,250	920	600
(...)													160	60	20
37	Somalia	2,930	20	240	180	150	280	20	1,620	70	240	60	60	.	.

Source: 100 per cent sample at 14 May 2007 from the National Insurance Recording System (NIRS).

Other major sources which allow us to identify foreign-born, foreign nationals or ethnic minority populations include:

- ONS population projections: Census-based population estimates by ethnicity, from mid-2001 to mid-2005.
- International Passenger Survey (IPS) collects information on people who enter or leave the UK, by nationality and other variables.
- Work permits: statistics available nationally.
- Highly Skilled Migrant Programme (HSMP): data available nationally.
- Worker Registration Scheme (WRS): for accession state nationals who are working, available regionally and by local authority area.
- English House Condition Survey: ethnicity only: the nationality question invites the response of English, Scottish, Welsh, Irish or Other.
- CORE: Continuous Recording System on Social Housing (ethnicity and nationality).

The value of the availability of data by local authority area is illustrated by the maps derived from WRS data shown in Chapter 1.

### **3.1 Using statistics to ‘measure’ socio-economic conditions and inequalities**

There are no statistical sources available on inequality as such – in particular on equality issues for migrants. However, it is possible to use some of the major statistics as a proxy for the condition of equality (or inequality) of people with a migrant background. In particular it is possible to cross-tabulate statistics on nationality, country of birth and ethnicity, with other key variables, for example:

- Index of deprivation<sup>12</sup> by percentage of migrants living in each area (that is, likelihood that migrants live in deprived areas).
- Long term-illness by country of birth (Source: Census).
- Disability rate by nationality (Sources: Census, LFS).
- House overcrowding by country of birth (Source: Census).
- Unemployment by country of birth (Sources: Census, LFS).
- Economic activity rates by nationality (Source: LFS).
- Provision of informal care by country of birth (Source: Census).

Such cross-tabulations provide information about the likelihood of a migrant being socio-economically disadvantaged, as compared with the general population. Some variables can be further decomposed to construct secondary indicators, for example qualification by occupational status (that is, de-skilling) by nationality (Source: LFS).

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<sup>12</sup> The *Index of Deprivation 2007* combines a number of indicators, chosen to cover a range of economic, social and housing issues, into a single deprivation score for each small area in England. This allows each area to be ranked relative to others, according to their level of deprivation.



Later chapters of this report will identify available statistics to be used to explore issues of inequality in seven sectors in particular: employment; housing; health; social services and care; education and training; financial, legal and advice services; and racial harassment.

### 3.2 Data on the six equality strands

The kind of statistical analysis mentioned above can also be broken down to explore the experiences of the migrant population by equality strand. As shown in Table 3.6, the major statistical sources available in Britain collect variables related to most of the six equality strands that are specifically identified by the the Equality and Human Rights Commission: gender, age, ethnicity, disability and religion. None of these sources, however, collect information on sexual orientation.

**Table 3.6 Availability of statistics on equality groups**

Source	Migrants		Equality Strands					
	Nationality	Country of birth	Race (ethnicity)	Gender	Age	Disability	Sexual orientation	Religious belief
Census	no	yes	yes	yes	yes	yes	no	yes
LFS	yes	yes	yes	yes	yes	yes	no	no <sup>1</sup>
NINo	yes	no	no	yes	yes	yes <sup>2</sup>	no	no
WRS	yes	no	no	yes	yes	no	no	no
Work Permits	yes	no	no	yes	yes	no	no	no
House Survey	yes <sup>3</sup>	no	yes	yes	yes	yes	no	no
CORE	yes	no	yes	yes	yes	yes	no	no
IPS	yes	no	no	yes	yes	no	no	no

Notes:

(<sup>1</sup>) Only available for Christian denominations in Northern Ireland.

(<sup>2</sup>) People claiming Incapacity Benefit or SDA within six months of registration.

(<sup>3</sup>) Only English, Welsh, Scottish, Irish and Other.

The lack of relevant statistical data on inequality is an EU-wide problem and the European Commission's Handbook on Equality Data (European Commission, 2006) contained recommendations on diversity monitoring to observe the impact of policies and practices upon the equality groups. The document also highlighted the lack of comparability of the different datasets, at both a national and international level, stating that comparability would be 'significantly enhanced by means of the adoption of standardised approaches with respect to definitions, classification standards and categorisation principles' (European Commission's Handbook on Equality Data, p 9). In terms of international comparability, the UK – with its extensive use of ethnic categories – poses major problems, since most other European countries mainly focus on nationality. In some countries, particularly France, the collection of data on race and ethnicity is still considered a taboo by both policymakers and researchers (Sales and D'Angelo, 2008).

In the UK, there are moves to collect more data to enable the proper monitoring of equality in relation to migrants. Bolton Metropolitan Borough Council, for example, is now monitoring housing applications for nationality (see more in the next chapter on the issues involved in this). Jon Lord, the Head of Community Housing, told us that he expects this will become standard across the North-West because Bolton is now the lead borough in implementing choice-based lettings across the region. He told us:

We monitor on nationality because we have to be able to answer questions about who it is helping and not ... We are starting to pick it up on tenancy sign-up and using it to design support packages. Other services such as health are also picking it up. Are there problems in asking the question? Sometimes it is about being open and transparent with people as to why you are asking. Where there have been problems, they are because staff don't understand it so cannot reassure people. Of course some people, because of how they arrived or whatever, may have problems because they fear how the information will be used, but they may turn up in fewer numbers in housing. But health services in Bolton monitor on nationality, too, it is easier in Bolton because health services have a good reputation for not asking about status or bothering about eligibility, they provide everything all the time to anyone without asking or checking, a deliberate position because of their set of values about providing health for all. So migrants in Bolton find them reassuring, so will have no problem answering questions about nationality because of their reputation.

Nationality, however, does not trump ethnicity. Within the large numbers of people who have arrived from Eastern Europe, for example, are groups of Roma who have already been subject to multiple disadvantages before arriving in the UK and often find more added here. They figure among those described as more likely to apply as homeless, turn up in research as more likely to be working without registration (already identified, for example, as such in the early stages of research in Bolton, to be completed in the near future), but no data appears on them in monitoring. They present a more particular problem in this respect: given their experiences over recent generations, and even if they were to appear as a separate category in monitoring, there is a great reluctance to identify themselves as Roma to 'the authorities'.

### **3.3 Conclusions and issues of ethics**

The lack of official statistics on both migrant population and inequality issues requires the use of the available sources as proxies. Using detailed disaggregations and cross-tabulation, it may be possible to triangulate different variables (and different sources) to investigate the likelihood of migrants experiencing inequalities.

In order to obtain more detailed and reliable information on inequalities experienced by migrants, it could be advisable to:

- Improve sources such as the LFS, with the annual collection of a large number of variables for a larger (that is, more representative) population.
- Develop ad-hoc surveys on migrant population and issues of inequality and integration.

On the other hand, this kind of development would raise serious concerns in terms of privacy, data protection and, more generally, about the expansion of a surveillance state, with serious implications for the lives of individual migrants. As illustrated by Bolton, the collection of good data about migrants will depend to a great extent on the degree of trust built up between migrants and the national and local state.

## 4 Human rights and equality

Human rights have, like migration, become the focus of some important but often ill-defined or ill-informed policy debates since the incorporation of the European Convention on Human Rights (ECHR) into British law in 1998. Equality legislation, meanwhile, has developed from an initial concern with gender and race to include other areas, and has also developed some differences between England, Scotland, Wales and Northern Ireland. This chapter reviews the current understanding of both equalities and human rights and the relationships between them, and also explores the uses of human rights law in relation to groups like migrants who may be excluded from other protection.

### 4.1 Human rights

Human rights refer to the basic rights and freedoms to which all men and women are entitled. They include civil and political rights, such as the right to life and liberty, freedom of expression and equality before the law; and social, cultural and economic rights, such as the right to participate in culture, the right to work, and the right to education. After the horrors of the Holocaust and World War II, and in order to protect future generations from a repeat of racial, political and religious persecution, the United Nations adopted the Universal Declaration of Human Rights (UDHR) in 1948. As Article 2 says, 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. The core principles of the Human Rights Declaration are dignity, fairness, equality, respect and autonomy. At the heart of human rights is the belief that everybody should be treated equally and with dignity – no matter what their circumstances. They aim to protect people's freedom, let them have control over their own lives and fair and equal treatment from public authorities. Although the UDHR is a non-binding resolution, it is now considered to be a central component of international customary law and may be invoked under appropriate circumstances by national and other judiciaries. The UDHR urges member nations to promote a number of human, civil, economic and social rights, asserting that these rights are part of the 'foundation of freedom, justice and peace in the world'.

Until recently, people in the United Kingdom had to apply to the European Court of Human Rights in Strasbourg if they felt their rights under the European Convention had been breached. The Human Rights Act 1998 made these human rights part of domestic law, and courts in the UK can now hear human rights cases. UK law includes a range of human rights which protect people, including minority groups, from poor treatment and prejudice, and which require them to have equal and fair treatment from public authorities.

Recent debate in the UK has focused on the relationship between human rights and equality. The Equalities Review (Cabinet Office, 2007) provides a new definition of the equal society which relates the two:

An equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would choose, so that everyone can flourish. An equal society recognises people's different needs, situations and goals, and removes the barriers that limit what people can do and can be. A society which protects and promotes equality successfully is one in which everyone is treated as being of equal value – as recognised in human rights principles – and effectively enabled to live a fulfilling life.

This definition of equality is not just about helping disadvantaged individuals reach their goal: 'It also recognises that we all share some of the responsibility for setting the conditions in which we can improve our own life chances, and for making sure that we are all treated with equal dignity and worth. It recognises different needs and identities, and provides for equal participation in society' (Cabinet Office, 2007: 16).

#### **4.2 Discrimination and equality**

Discrimination legislation, case law and action in the UK has a longer history, although the inclusion of four of the six strands is relatively recent, and there are different ranges of legal sanctions applied to each.

Of particular interest in the context of migrants, especially because many of these can be described as White, is the definition of racial discrimination contained in the 1976 Act (and the Race Relations (Northern Ireland) Order 1997) as treating less favourably than another on racial grounds, with racial grounds then explained in S3 of the Act:

Racial grounds means any of the following grounds, namely colour, race, nationality or ethnic or national origins.

In the 30 years since the passing of the Act, fortified by the arrival of the duties to promote race equality in 2001, a structure for monitoring has been built up, particularly by public bodies, employers and others, to measure possible discrimination in service delivery and employment, and thus to provide good information about the progress of race equality policies as well as possible defences against any discrimination action. These monitoring efforts generally use, as recommended by the Commission for Racial Equality (CRE), the ethnic groups identified in the Census as the basis for measuring equality actions, which were themselves proposed by the CRE. The problem is that this ethnic monitoring is

essentially shaped by the 1970s and 1980s, when it was certainly true that most discrimination took place on the basis of perceived ethnicity, and broad categories like White and Black could reasonably hope to show it up. Now, however, discrimination (like the society in which it is taking place) has become much more diverse. Racial attacks on white migrants are reported every week, and these occur in England, Scotland and Wales<sup>13</sup>. Employment tribunals are reportedly seeing an increasing number of cases in which discrimination against migrants has been found<sup>14</sup>.

Even an expanded ethnicity question recommended by the CRE fails to pick up any issues of discrimination or disadvantage by nationality, since it identifies only:

- White (British (English, Scottish, Welsh, other), Irish, Gypsy, Irish Traveller, any other).
- Mixed.
- Asian, Asian British etc, plus Indian, Pakistani, Bangladeshi, other
- Black, Black British etc, plus Caribbean, African, other.
- Chinese, Chinese British etc, plus other.

As noted in Bolton (quoted in Chapter 3), these categories entirely fail to identify many new migrants (including refugees and asylum seekers) and so are likely to allow significant discrimination on the racial grounds of nationality to go unchallenged. Arguably, such a failure leaves those who use these categories for monitoring open to findings of possible discrimination since they cannot show any evidence of how people in different national groups are treated.

Monitoring on the basis of nationality, since it is already in the legislative definition of 'racial grounds', is clearly called for in the new, hyper-diverse context created by migration. Arguably, monitoring by country of birth might be more useful (since it is likely that a lot of direct discrimination takes place in relation to a perceived nationality as much as on the actual papers held by a migrant) but, since discrimination on the grounds of nationality is illegal, and discrimination on the grounds of country of birth is not, monitoring on nationality will certainly be a useful tool. The difficulty with this is also noted in Chapter 3: such monitoring must be seen to be entirely separate from enquiries made to establish eligibility for services and especially from any investigation of immigration status.

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<sup>13</sup> See, for example, the weekly Institute for Race Relations bulletin [www.irr.org.uk](http://www.irr.org.uk)

<sup>14</sup> See, for example, Exploited and abused Polish sisters win £16,000 for hotel ordeal in *The Scotsman*, 15 May 2007

The importance of a rigorous Equality Impact Assessment of policies was emphasised in the judgement in *R (HSMP Forum Ltd) v SSHD* [2008] EWHC 664 (Admin)<sup>15</sup>, in which the courts found against the Home Office in relation to the processes for changing the rules for highly skilled migrants (see Chapter 2). The Home Office had changed the criteria for assessing applications for renewal of leave by highly skilled migrants, who then found that, having been accepted to live and work in the UK, and stated their intention to settle (as a condition of the grant of leave), they were then failed on renewal as a result of the rule change<sup>16</sup>. It is important to note that the case was actually decided on the grounds of legitimate expectation rather than human rights or race discrimination. It, however, does illustrate the possibilities for migrants to use the discrimination legislation.

Monitoring also presents other, well-rehearsed problems which are not specific to migrants. There is, for example, almost no data collected on sexual orientation, and this is largely because of the difficulties presented in monitoring it. Note, therefore, a need to review current monitoring arrangements, guidance and categories in order to ensure that they reflect legal requirements, the new context and best practice in relation to information that is difficult to collect via direct service-usage monitoring.

### **4.3 Interactions: human rights, equality strands and intersectionality**

With the inclusion of discrimination in the ECHR, and thus its incorporation into UK law, the use of human rights legislation to tackle inequalities or disadvantage has become more common. Many recent cases have been of relevance to migrants, covering, among others:

- Access to basic accommodation and support services for people with no leave who cannot go elsewhere (*R v SSHD ex p Adam, Limbuela and Bessemer* [2005] UKHL 66).
- Access to basic accommodation and support services for people with community care needs for people with no leave to remain (for example, *R (Mani) v Lambeth and SSHD* 2003] EWCA Civ 836).
- Rights to health care for people who have no further rights to remain in the UK (*R (A) v West Middlesex University NHS Trust* [2008] EWHC 855 (Admin)).
- Access to accommodation and support for families with children who have irregular status, relying on the right to family life (*R (M) v Islington LBC* [2003] EWHC 1388).

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<sup>15</sup> All cases cited in this chapter can be found on [www.bailli.org](http://www.bailli.org)

<sup>16</sup> Another linked case, brought by the British Association of Physicians of Indian Origin (*R (BAPIO Action Ltd and another) v SSHD and another* [2008] UKHL 27, 30 April 2008) found that the Secretary of State for Health had also erred in issuing new, unwritten and formally unauthorised guidance to NHS hospitals telling them not to offer posts to international medical graduates unless there were not UK or European doctors to fill them. This was also decided on the legitimate expectation created by the HSMP conditions.

Other cases have covered similar issues affecting, especially, rights against inhuman and degrading treatment for those who have fallen through the gaps in the welfare safety net and have no other options. While many such cases inevitably involve former and current asylum seekers (who may be taking other legal proceedings about their asylum claims and so are already in touch with lawyers, and also avoid the possible argument that they can mitigate the breach of their human rights by going home), it is of note that *O v London Borough Of Wandsworth / Bhikha v Leicester* [2000] EWCA Civ 201, which is the core case that laid down the essential principles of using community care provisions for the destitute with no access to benefits or housing provision, involved two over-stayers, and also that it pre-dated the incorporation of the ECHR into British law, relying instead on the law of humanity and the belief by LJ Hales that 'If there are to be immigrant beggars on our streets, then let them at least not be old, ill or disabled'.

Human rights legislation has thus become part of the armoury of equality work. It may not, however, be enough. Tummon (2008) is concerned that an approach based more on human rights and less on the fight against discrimination and inequality may fail or be undermined because of a lack of political will. He cites issues such as equal pay, hate crime, high rates of economic inactivity among Muslim women (we might add, especially those with few qualifications and dependent children (Equal Opportunities Commission, 2006)), a clear pattern of marginalised employment among Muslim men, differential educational attainment, and Islamophobia, as too complex to tackle using a simple human rights approach, and others as potentially too politically sensitive to be easy to pursue, among which he includes the treatment of vulnerable migrant workers in agency-based employment.

Beyond them, of course, stand the thousands of migrant workers in irregular employment and immigration status. For them, the possibilities opened up by human rights legislation are not only in challenging the extremes of destitution and degrading treatment they may face but also in opening up potential routes into regularisation. Human rights actions may also be their only resource in dealing with discrimination at work: *Vakante v Addey and Stanhope School* [2005] ICR 231 established that, where a migrant is not compliant with the law on authorisation to work, they have no legal contract and so cannot enforce their individual rights in relation to discrimination at work. Such discrimination, however, is not only a breach of the labour contract, it may also be a tort – a wrong not covered by a contract (unless the tort is inextricably tied up with the contract) – and this can be used to enforce against discrimination. In a recent case, *Nabin Basnet v Thai Pavilion* (unreported), the Employment Tribunal said it was appropriate to consider a claim of discrimination but went on to find the claim not proven against the employer.



Until now, the different forms of discrimination have generally been treated separately but the interaction of multiple forms is beginning to receive increasing attention in European anti-discrimination directives and their application (European Commission, 2007; Verloo, 2006). The creation of a single equalities body creates the potential to draw greater attention to the ways in which multiple forms of discrimination compound each other and intersect, reflecting both a legal and a political issue (United Kingdom Race & Europe Network, 13 March 2008). Kimberley Crenshaw (1989), a North American academic lawyer, first defined the term intersectionality to define a situation in which several grounds of discrimination interact concurrently. In a European context, Makkonen (2002) clarified the distinction between compound discrimination, in which one or more grounds add to each other, and intersectional discrimination, where several grounds operate simultaneously and interact with one another. Much of the academic and policy thinking has emanated from studies of gender and its intersection with other social divisions. For example, the European Union Agency for Fundamental Rights (2007) showed how women's experiences of racism and other forms of discrimination often differed from those of men due to the interplay of gender with their ethnic and racial origin, religion and belief, disability, age and sexual orientation. They cited examples related to employment, family reunification, trafficking, age, domestic violence and access to health care by Roma women. In the UK, the Fawcett Society (Moosa, 2008) has argued for the need to examine the intersection of gender and race, the latter using ethnic minorities as a category.

#### **4.4 Conclusions**

The interplay between human rights and discrimination, and the intersectionality of different forms of discrimination, are relatively recent areas of study and concern in the UK, and migrants (and their treatment, especially by public authorities) are certainly at the centre of them. The systems of monitoring that had been promoted by the CRE, EOC and others, however, do not enable the effective monitoring of discrimination against migrants, and there are general problems with monitoring other types of discrimination as well. The inclusion of nationality as a routine category on which to monitor will both enable employers and service-providers to identify potential discrimination on these grounds and give them a possible defence against discrimination proceedings. It will be important to consider the context in which this could be introduced and to establish how such monitoring can be distinguished from eligibility and immigration enquiries. It is also important to consider ways in which human rights legislation can be used to support migrants who face exploitation and discrimination but are unable to use the legislation because of actual or perceived barriers.

## **5 Good community relations, integration and citizenship**

Faced with a more diverse society and problems of ethnic intolerance, policymakers and social scientists have been increasingly concerned with the issue of good relations between different people and communities in urban and other contexts. However, the definition of good relations is rather vague and refers to several things. This chapter explores various ideas that are involved in different aspects of good relations: living together, mutual respect, mutual recognition, social capital, and intercultural communication. Then the term good relations will be linked to concepts such as community cohesion and integration.

### **5.1 Living together, respect and good relations**

According to the French sociologist Alain Touraine, the idea of living together does not only imply tolerance of 'the other' but invokes solidarity as the active support for the expression of a multicultural society (Touraine, 2000: 141). As Touraine put it, people from diverse backgrounds can live together only in a context of intercultural communication, and only if they mutually recognise and accept each other in their diversity and see each other as full human beings. Richard Sennett (2003) argued that respect implies mutuality and that treating with respect means taking the needs of others seriously. In contemporary societies we can earn or fail to arouse respect in three ways: through developing abilities and skills; through care of the self; and through giving back to others. Neither Touraine nor Sennett provide empirical examples or practical suggestions, but both say that we establish 'good relations' if we share values which do not harm others' rights and needs, and which recognise all others as full human beings irrespective of differences such as nationality, gender, disability or sexual orientation.

At a more practical level, and following the disturbances in Bradford, Burnley and Oldham in the summer of 2001, community cohesion emerged as a concept in British public policy discourse in respect of relations between different ethnic and racial groups. In the Cantle report, which was commissioned by the Government to investigate the events in northern England, the concept of community cohesion had a particular relevance. The report argued that, in some parts of the country, educational and residential segregation meant that different communities were in effect living parallel lives (Cantle et al, 2001: 9). Amin's (2002) analysis of the street riots in 2001 also emphasised the local dimension and argued that 'inter-ethnic relations are played out as a neighbourhood phenomenon, linked to particular socio-economic conditions and cultural practices that coalesce into a local way of life', rather than as part of the national picture of race and ethnicity in Britain. Therefore good relations among diverse groups can develop at a local level and on the basis of what he calls inter-culturalism, in contrast with more formal, national versions of

multiculturalism and cosmopolitanism. For such everyday lived experience and local negotiation of difference to be effective, 'it needs to be inculcated as a habit of practice (not just co-presence) in mixed sites of prosaic negotiation such as schools, the workplace and other public spaces, or as an experience of cultural displacement and transgression in liminal sites such as Colleges of Further Education, youth leisure spaces, communal gardens, urban murals, legislative theatre and civic duty' (2002: 21). However, the success of such practices remains the product of local context and energies.

## **5.2 Social capital and migration**

Concerns about the negative effect of migration on community cohesion and about the detrimental impact of ethnic diversity in modern Britain on the sense of community and solidarity among citizens have recently been expressed by the sociologist Robert Putnam (2007). In an attempt to explore the implications of the transition to a more diverse, multicultural society for social capital, he suggested that, in the short run, good relations, measured in terms of trust (even of one's own race), altruism, community cooperation and friendship, were lower in areas with a high density of migrants. His study of social capital in the US showed a strong positive relationship between inter-racial trust and ethnic homogeneity. Inter-racial trust was relatively high in homogeneous states and low in heterogeneous ones. The more ethnically diverse the area, the less people trusted each other, whether they came from the same or a different ethnic background. In the long run, however, according to Putnam, successful immigrant societies have overcome such fragmentation and have been associated with more creativity, for example in science and arts, more rapid economic growth, more financial contribution to the state budget, and even more development for the global South because of remittances and the transfer of skills and technology.

Recent research (Muir, 2008) in some areas of London (Barking and Dagenham, Southwark and Hounslow) seems to confirm the picture drawn by Putnam. It shows that there is a widespread perceived concern around a decline in social capital and the loss of older community networks. Residents of these areas often complain that 'People don't talk to each other any more', 'You don't really know your neighbours any more', 'When we were growing up it was different'. However, in much of London, greater residential mobility may have resulted in the weakening of social ties, and some of this basic loss of social capital (independent of recent migration patterns) can then get mixed up with anxiety over immigration.

In practice, many migrants are essential to cohesion and the development of social capital in any meaningful sense. Many of the services on which communities depend in order to meet, communicate and survive depend on migrant labour: transport,

catering and hospitality, care and domestic work. It is migrants (and sometimes undocumented migrants) who often make possible the regular volunteering that is done by 39 per cent of the population, and also enable older and disabled people and those caring for children to participate in community and social life.

Other research shows that in terms of meaningful contact with the local population, there is a big difference between groups (Ward, 2008). In Coventry, for example, while most of the refugees and asylum seekers had little or no contact with the local population, the Polish new migrant respondents could be said to have more meaningful contact with the host population than the African new migrants, but this was confined to those who spoke English. Respondents also indicated that some tensions existed between refugee, asylum seeker and migrant communities in Coventry, illustrating that conflict is not confined to dynamics between the host population and new arrivals.

Another major research project (Hickman et al, 2008) based on six sites in the UK (Leicester, Downham and Kilburn in London, Peterborough and Thetford, Dungannon in Northern Ireland and Glasgow), highlighted that to ensure cohesion, the impact of social and economic changes has to be addressed as well as how people relate to each other. They found that the limited opportunities and multiple deprivations of the long-term settled population in parts of UK towns and cities could undermine social cohesion. These fundamental issues of deprivation, disadvantage and discrimination impact on both majority ethnic and minority ethnic settled residents. This research suggests that a restructuring of the housing debate away from arguments about need and entitlement to a focus on the provision of adequate housing for all would be beneficial for social cohesion. There are opportunities across a number of policy areas to integrate addressing disadvantages and ensuring cohesion.

### **5.3 Good relations, cohesion and integration**

In *Our Shared Future*, the Commission on Integration and Cohesion (2007) suggested a new definition of both integration and cohesion: 'Cohesion is principally the process that must happen in all communities to ensure different groups of people get on well together; while integration is principally the process that ensures new residents and existing residents adapt to one another'. Moreover, cohesion is not just about race and faith, and integration is not a synonym for assimilation but is rather about how different communities adapt needs and cultures to each other. Although integration and cohesion have different meanings, the two processes interact with one another. The emphasis is on the small scale of local communities, on neighbourhoods rather than the national level. A strong theme running through the report is that 'a one size fits all' solution cannot be prescribed at a national level and that it is only at the local level that specific initiatives can be designed and delivered

to build better integration and cohesion. In short, local initiatives have to be taken within a national framework and commitment. The Commission's conclusions echo some, though not all, of the Common Basic Principles on Integration developed by the European Union.

The Government's reply to the Commission's report (2008) also argued that cohesion can only be understood and built locally: central Government's role is to set the national framework within which local authorities and their partners can deliver improvements to cohesion. It stated that citizenship is not 'a legal status and a set of legal rights' but a two-way process involving migrants too: it is also about what society and the state expect of citizens as individuals and about feeling a sense of belonging both to the UK and to the part of the country in which people live. The response set out further key principles to support the local delivery of cohesion:

- Mainstreaming cohesion into wider policy areas.
- A national framework for local support and guidance.
- The integration of new migrants and existing communities.
- Building positive relationships and encouraging activities that provide bridges between different groups.
- A stronger focus on what works in building integrated and cohesive communities at a local level.

One result of the Commission's report, however, was that its doubts about single group funding (that is, grants to organisations offering services to or representing specific ethnic groups) were picked up and echoed by a range of agencies and statutory funders. For example, the Housing Corporation, which funds and regulates housing associations, issued guidance on cohesion which said that it would no longer invest to benefit a particular community group unless 'an equality and business case' was made for such investment, and made it clear that, even if the case was made for the specific needs of a group, the latter would still have to show how its policies and practices would promote integration and cohesion. Migrant organisations would thus have to meet more stringent conditions for funding. Some local authorities took a similar line. The result was the threatened closure of many organisations offering valuable services to new communities and migrants.

One organisation so threatened, Southall Black Sisters, an organisation that has worked with many different communities of women over decades, and has been crucial in achieving changes in the law on domestic violence and marriage, decided to take a legal challenge when the London Borough of Ealing announced it was to remove the funding it previously received to work on domestic violence in the area.

On 18 July 2008, in response to Ealing's decision to withdraw from fighting the case, Lord Justice Moses ruled that:<sup>17</sup>

There is no dichotomy between funding specialist services and cohesion; equality is necessary for cohesion to be achieved.

He also issued guidance to Ealing on doing proper Equalities Impact Assessments at the formative stage of such decisions, and stated that positive action was an essential part of the duty to promote racial equality, and specialist services are not in contravention of race relations legislation. This decision may have a far-reaching impact on the attitude of public authorities and Government agencies to services provided by migrants for migrants.

In their contribution to the Goldsmith Review, Rutter et al (2008) suggested that 'super mobility' presents new challenges for social integration in an increasingly diverse society, in helping migrants to identify with their local neighbourhoods and encouraging active civic participation among newcomers. For many local authorities and councils, community cohesion and tensions are certainly key concerns, but there is evidence of proactive responses to address them (Convention of Scottish Local Authorities, 2008; Local Government Authority, 2008; Welsh Local Government Authority, 2008). Coventry Council's community strategy seeks to promote positive communications in relation to diversity, but also to promote more open debates on issues related to resource allocation such as housing provision, to ensure that people from different backgrounds have similar life opportunities and access to information and advice on job opportunities, and to develop strong and positive relationships between people from different backgrounds (Ward, 2008). A survey of the impact of migration at a local level within England, based on about 100 interviews with local authorities (Institute of Community Cohesion, 2008) shows that, significantly, most of them focused on understanding and addressing the needs of migrants, some on 'bridging' or integration activities, but fewer on working with local communities to better inform them of the facts and benefits of the changing population. Some of the examples of what has been done to improve community cohesion in relation to migrants include:

- Information for the local community about migrants, myth-busting, building relations with the local media and developing projects to bring communities together (Bristol, Devon, Flintshire).
- Information for migrants on local life and supporting projects to better inform and engage migrants.

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<sup>17</sup> [2008] EWHC 2062 (Admin) R (Kaur and Shah) v LB Ealing available at [www.wrc.org.uk/includes/documents/cm\\_docs/2008/s/sbs\\_judgment.rtf](http://www.wrc.org.uk/includes/documents/cm_docs/2008/s/sbs_judgment.rtf)

On the other hand, the Community Development Foundation (CDF, 2008) has suggested that new patterns of racial prejudice and hostility towards new migrants can be attributed to increased competition for access to public services, such as housing and local amenities. It highlighted the importance of responsive and reciprocal actions to community cohesion and migration, and the key roles of community development practitioners, community and voluntary groups and public sector providers in the preparation, support, settlement and integration of migrants. It also argued that the experiences of groups funded by the Connecting Communities Plus programme have been encouraging, with reported outcomes including:

- Improved access to local employment, healthcare services, social welfare and education through training, mentoring and advice.
- Increased understanding of community needs and awareness of migration issues among service providers, employers, and members of the wider community.
- Improved access to information and services for refugees and other migrants.
- Improved self-esteem, confidence, clarity about personal development and career goals, motivation, and friendship among participants.

Bolton Metropolitan Borough Council provides an example of this approach. Jon Lord, cited earlier, has stated that:

The strategic role is to have a vision of what you mean by equalities, which is not necessarily there for all authorities, but is about facilitation, essentially also to lead and support. You are there to try and bring a whole range of different issues and groups together for some common set of values and objectives. We have tried to do it, sometimes that has been successful and we are starting to see some groups who have arrived eight or nine years ago now in the mainstream of consultative bodies. This was always the aim: that they started to feel confident enough to turn up at forums, some of the groups do that now. The biggest issue has been real suspicion, doubt, sometimes hostility from Asian and BME [black and minority ethnic] communities in the borough. The Asian community still have huge issues, for example underachievement among Pakistani males. There are tensions there mainly between Muslim and newer Eastern European communities and also they [Eastern Europeans] are not big on Asians etc. It keeps cropping up, and we must get away from the simplistic way of thinking, getting local authorities to understand not to lump migrants and BME communities as one lump, there are lots of sophisticated relationships to be understood, nuances are so important ... developing knowledge and understanding so important.

## **5.4 Conclusions**

Throughout this debate, as with the debate on migration generally, there is a blurring of focus and categories that is of real concern. The ready identification of the arrival of larger numbers of migrants as the cause of a lack of cohesion in a neighbourhood, which then needs remedies such as informing and engaging migrants, may actually be a complete reversal of cause and effect. In practice, the largest numbers of new migrants are now from Eastern Europe: they take up lower-paid work and move to areas where lack of cohesion has already created a relatively cheap rental market and access to poor-quality housing and work. The work they do, however, often makes a hidden or indirect contribution to community cohesion, social capital and inclusion.



## 6 Employment

The percentage of migrants among the working-age population (aged 16 to 65 years) in Great Britain has risen sharply in the past decade, from 8.7 per cent in 1997 to 9.8 per cent in 2001 and to 11.5 per cent in 2005 (Dustmann et al, 2007). One of the most hotly debated issues around recent immigration has been the contribution of migrants to the economy and the degree to which migrants from the European Union (EU) A8 and A2 accession countries have had an impact on unemployment and on wages (Dustmann et al, 2007; House of Lords, 2008; Government Response, 2008; Lemos and Portes, 2008). Although it is assumed that issues of competition pertain primarily to the lesser skilled in the labour force, a number of policy changes have also sought to restrict the flow of certain categories of non-EU skilled workers, especially in the health sector. Of course the impact of migrant workers varies according to sector<sup>18</sup>, gender, nationality and geographical location.

This chapter examines the economic profile of migrants, their contribution to the economy (with two case studies from sectors in which there is a significant presence of migrant workers – that of social care and hospitality sectors), working conditions, vulnerable workers, the role of agencies and inequalities (in particular according to gender, nationality and age). These issues are illustrated through studies of migrants in the social care and hospitality sectors.

### 6.1 Economic profile of migrant workers

In *Britain's Immigrants: An economic profile*, Sriskandarajah et al (2007) provide a picture of the economic profile of Britain's biggest immigrant groups. There is considerable variation between the economic characteristics of immigrant groups, which makes any evaluation of the average impact of immigration highly problematic. Most immigrant groups do better in economic terms than the UK-born population. However, there are some immigrant communities which rank consistently lower on most indicators than the UK average. In some cases, these relatively low-ranking communities are predominantly made up of people who have come to the UK for non-economic reasons (for example, to join family members who are already in the UK, or to seek asylum). Almost all of the immigrant groups outrank the UK-born in terms of length of time in education, but not all groups seem able to translate this into positive labour market outcomes. Some relatively newly arrived groups are doing particularly badly in economic terms, whereas more settled groups are doing much better. This may indicate that outcomes can change dramatically over time and economic success increases with length of stay. Several groups seem to be

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<sup>18</sup> McKay et al (2006) looked at six sectors in terms of health and safety – agriculture, cleaning, construction, healthcare, hotels and catering, and processing and packaging. Migration Advisory Committee (MAC) commissioned sectoral studies on the use migrant labour in seven sectors – agriculture, construction, financial services, food processing, health, hospitality and social care.

struggling to improve economic outcomes across generations, while children of Bangladeshi, Pakistani, Turkish and Somali ethnicity achieve below-average results in British schools.

Green et al (2005a, 2005b, 2005c, 2007) argue in their studies of the Midlands that the characteristics of migrant workers vary by migration route and that the expansion of the EU in 2004 had significant implications for flows of migrant workers to the UK. The impact on unemployment rates and the wages of native workers has been vigorously debated (House of Lords, 2008). Lemos and Portes (2008) concluded that there had been little impact on unemployment but that the evidence was more mixed in terms of the effect on wages. Dustmann et al (2007) found a positive effect on wages at the middle income level but a negative, though modest, effect at the lower end. Coats (2008: 52) believed that, if there had been a wage effect, it was on earlier groups of migrants such as asylum seekers and ethnic minorities rather than on those born in Britain.

Research shows an increasing occupational segregation and bi-polar distribution: migrants tend to be concentrated in occupations where wages are significantly higher than average (for example, ICT and health professionals) or in occupations where wages are significantly lower than average (for example, in operative and elementary occupations) (Green et al, 2007). In the latter case, sizeable wage gaps exist between migrant and UK-born workers, with the latter earning more than the former (Green et al, 2007). In a study of Eastern Europeans, the proportion of migrants who earned below £5 an hour was quite high and the majority of them were women (Markova and Black, 2007). There is a trend towards a greater concentration of the newly arrived in less-skilled occupations. Furthermore, the areas of employment where migrant workers are concentrated are associated with higher than average rates of turnover. Usually these are jobs associated with relatively unattractive working conditions. Research has also emphasised the importance of migrant labour for the local economy and their use as temporary staff during peak periods (Zaronaite and Tirzite, 2006).

Table 6.1 illustrates the clustering in terms of skills in relation to the major occupational groups for non-UK citizens compared to UK citizens. Thus, for example, while 28 per cent of UK nationals are in the managerial and professional groups, only 21 per cent of Bangladeshis are, alongside nine per cent of Poles, 12 per cent of Portuguese and no Somalis. At the other end of the occupational scale, 28 per cent of UK nationals work in process, plant and machine-operating jobs or elementary occupations, compared with five per cent of Australians, 33 per cent of Bangladeshis, 56 per cent of Poles, 54 per cent of Portuguese and 52 per cent of Somalis.

**Table 6.1 Major occupational group, by nationality (per cent)**

	1	2	3	4	5	6	7	8	9
UK	15.2	12.8	14.2	12.4	11.1	7.9	7.9	7.4	11.0
Australia	19.5	33.3	16.8	11.2	6.5	3.0	4.3	0.0	5.4
Bangladesh	9.9	11.6	0.7	6.8	15.7	5.3	17.0	14.5	18.6
China	8.0	18.0	14.8	10.4	10.9	7.4	9.9	4.8	15.8
Poland	3.6	5.3	4.7	3.8	15.2	7.1	3.7	17.1	39.4
Portugal	6.2	6.0	2.6	2.7	10.3	13.3	5.1	12.1	41.7
India	8.8	27.8	16.7	7.3	6.5	3.3	9.9	6.5	13.1
Nigeria	5.7	20.0	10.9	7.0	0.6	16.9	10.5	1.1	27.4
Somalia	0.0	0.0	0.0	0.0	6.3	36.8	4.6	9.3	42.9
Ireland	16.7	17.6	17.5	7.7	10.9	6.4	4.8	8.5	10.0
<b>Total</b>	<b>15.1</b>	<b>13.0</b>	<b>14.2</b>	<b>12.1</b>	<b>11.0</b>	<b>8.0</b>	<b>7.8</b>	<b>7.4</b>	<b>11.5</b>

Source: LFS, 2006 (annual average of four quarters).

Legend:

- 1 Managers and senior officials
- 2 Professional occupations
- 3 Associate professional and technical
- 4 Administrative and secretarial
- 5 Skilled trades occupations
- 6 Personal service occupations
- 7 Sales and customer service occupations
- 8 Process, plant and machine operatives
- 9 Elementary occupations

Table 6.2 looks at the sectors in which different nationalities work. It illustrates a clustering of Poles and Portuguese in manufacturing, but the big difference is in distribution, hotels and restaurants, where only 19 per cent of UK nationals work, compared with 51 per cent of Bangladeshis, 41 per cent of Chinese and 44 per cent of Somalis. While 29 per cent of UK nationals work in public administration, education and health, 35 per cent of Indians, 38 per cent of Nigerians, 42 per cent of Somalis and 35 per cent of Irish nationals work in these areas.

**Table 6.2 Industry sectors in main job, by nationality (per cent)**

	A-B	C,E	D	F	G-H	I	J-K	L-N	O-Q	X
UK	1.4	1.0	12.9	8.2	19.0	6.8	15.6	28.9	6.2	0.0
Australia	1.9	0.6	8.4	4.4	11.2	4.2	33.9	25.0	10.4	0.0
Bangladesh	0.0	0.0	10.6	0.0	50.9	10.9	5.4	17.4	4.8	0.0
China	0.0	0.8	9.6	1.0	40.7	4.9	16.0	27.0	0.0	0.0
Poland	1.4	0.0	21.2	12.7	25.1	11.6	12.1	9.7	6.3	0.0
Portugal	0.3	0.0	15.6	4.7	33.3	7.4	15.4	18.1	5.1	0.0
India	0.4	0.4	12.1	5.1	20.6	6.0	17.4	35.2	2.4	0.3
Nigeria	0.0	0.4	7.5	3.3	15.1	6.4	24.6	38.2	4.5	0.0
Somalia	0.0	0.0	0.0	0.0	43.9	9.3	4.4	42.3	0.0	0.0
Ireland	0.5	0.9	9.5	13.8	12.4	4.7	16.7	35.2	6.3	0.0
<b>Total</b>	<b>1.4</b>	<b>1.0</b>	<b>12.9</b>	<b>8.1</b>	<b>19.1</b>	<b>6.8</b>	<b>15.8</b>	<b>28.7</b>	<b>6.2</b>	<b>0.0</b>

Source: LFS, 2006 (annual average of four quarters).

Legend:

- A-B Agriculture and fishing
- C,E Energy and water

D Manufacturing  
 F Construction  
 G-H Distribution, hotels and restaurants  
 I Transport and communication  
 J-K Banking, finance and insurance  
 L-N Public admin, education and health  
 O-Q Other services  
 X Workplace outside UK

Many migrants, although working in low-wage and low-status occupations, are in fact well-educated and/or experienced. For Worker Registration Scheme (WRS) workers, a higher proportion than the UK population have no qualifications (33 per cent compared to 13 per cent of UK population) but 40 per cent of WRS workers have NVQ 4 or 5 compared to only 25 per cent of the UK population (UK Border Agency (UKBA) et al, 2008). Local studies confirmed the deskilling and failure to make use of their skills. The Fife Coordination Research Group survey (2008), undertaken in 2007, found that 70 per cent of A8 workers were not making use of their skills. Another Scottish study (Blake Stevenson, 2007) found that only 16 per cent of its sample of A8 nationals had been employed in unskilled or semi-skilled manual work in their country of origin, compared with 39 per cent of the same group employed in such work in Glasgow. The survey of returned Polish migrants (Pollard et al, 2008) found that highly educated migrants were more likely than those with vocational qualifications to be working in elementary occupations such as cleaning; in addition, some of those with vocational qualifications are likely to be self-employed. Among those who stay longer and improve their English, there is movement into more skilled work (Pollard et al, 2008).

There are regional differences in the various aspects we have examined so far. Although in some regions there has been a substantial inflow of recent migrant workers, as in East Anglia and the East Midlands, in others the proportion remains low though uneven, as in Wales. Differences pertain not just to flows but also to sector of employment, nationalities, gender composition, age, nature of employment contract and characteristics of the workplace. This can be illustrated through demographic and workplace specificities in Wales, where the proportion of female migrant workers in 2006, for example, was higher (at 43.4 per cent) than in the rest of Britain (41.9 per cent), probably due to the higher proportions employed in the public sector (28.3 per cent in Wales compared to 15.7 per cent in the rest of Britain) and as associate professionals (15.3 per cent in Wales and 13 per cent in the rest of Britain (LFS statistics cited in Cam, 2007). Pay is lower for migrants, while the pay gap between migrants and non-migrants is larger in Wales than the average for the rest of Britain. Furthermore, a higher percentage of migrants are paid the minimum wage and below (26.5 per cent) compared to 20.7 per cent in the rest of Britain. The distinctiveness of migrant employment can also be measured by the numbers on

temporary contracts which, Cam believes, result in part from a heavy reliance on agencies. Whereas 21.2 per cent of migrants in Wales are on temporary contracts, the figure for the rest of Britain is 13.6 per cent. However, similar proportions of non-migrants are on such contracts: 5.4 per cent in Wales and 5.6 per cent in the rest of Britain.

The next sub-sections examine two sectors, those of social care and hospitality, which employ a considerable amount and diverse range of migrant labour but which until recently have been little studied.

### **Social care**

More than 100,000 care assistant and home care workers – some 16 per cent of the registered workforce – are born overseas. Migrants in this sector are varied and enter through different routes: for example, Eastern Europeans, family migrants, migrant domestic workers who have entered with their employer, working holiday-makers and students, as well as asylum seekers (with or without permission to work) and the undocumented. Thus, care assistants and home carers with 20,015 registrations accounted for three per cent of total known registrations for the WRS for the period May 2004 to December 2007 (Border & Immigration Agency (BIA) et al, 2008). In addition, there was a substantial increase in the number of work permits issued for personal services, from 2,570 in 2005 (three per cent of permits) to 4,963 in 2006 (five per cent) (Salt, 2007).

Most carers are working in less skilled jobs and, as we have seen in relation to senior carers, there is relatively little use of more qualified staff with NVQ3 qualifications and above (see Chapter 2). There is also no clear dichotomy between regular and irregular workers: for example, a student may be working more hours than supposed to, or a skilled migrant such as a nurse on a work permit may be doing a less skilled job, which is not permitted (Ruhs and Anderson, 2006).

In 2005, the largest groups of migrants in residential homes and community care were from Zimbabwe (13 per cent) (MacGregor, 2007), Philippines (seven per cent), India (seven per cent), Nigeria (six per cent) and Jamaica (six per cent) (Cangiano, 2007). Table 6.3 outlines the characteristics (gender and age) of foreign-born workers in social care. Compared to the UK-born, foreign-born workers are more likely to be younger and male. They are also more likely to work in the private than the public sector (75 per cent compared to 64 per cent of UK-born) and to experience poorer conditions of work and pay (Cangiano, 2007) than a UK-born worker. However, a study in London found that care workers often received higher wages than other low-paid workers, with more social protection and wage increases (Evans et al, 2005).

**Table 6.3 Workforce in social care, 2005 (per cent)**

		UK-born	Foreign-born
Sex	Male	12	18
	Female	88	82
Age	<30	23	30
	30-44	36	36
	45+	41	34

Source: Cangiano, 2007, and LFS.

Geographically there were considerable variations, with 68 per cent of care assistants in London in 2006 being foreign-born, but only six per cent in Wales (Experian, 2007). Many migrants had entered recently: 64 per cent of Poles arrived in 2005, since when new registrations on the WRS have declined (UKBA et al, 2008). For the latter group, work in the care sector may be a first step towards higher-paid employment and forms part of the concern over high levels of turnover and ability to provide high quality care (*Personnel Today*, 8 May 2007). It is likely that employment will need to expand: the *Skills for Care Report* (2008) forecast that it could increase by 80 per cent by 2025 and require an additional 2.5 million workers to cope with new ways of providing care and a growing older population. Individuals receiving direct care payments have increased rapidly in the past few years, initially among adults with disabilities (16,140 in 2006–7), but older people (13,184 in 2006–7) are set to overtake them as the largest group. In addition to the 47,088 individuals receiving direct care payments, there are an estimated 145,000 older people funding their own care (Eborall and Griffiths, 2008: 23–4).

The consumer of care is likely to seek out labour that is cheap yet authentically ‘caring’ (Ungerson, 2003), which may lead to the employment of labour unprotected by social rights and employment regulation. The Act does apply to agency workers, but the increasing encouragement of direct payments and individual personal budgets is turning individuals in need of care (or their carers) into employers.

Earlier research on migrant domestic labour, often undocumented, found that many employers in the UK did not believe that normal rights of minimum pay and hours worked should apply to their workers. They also often expressed attitudes and stereotypes that were blatantly racist and would not be tolerated elsewhere (Anderson, 2006). There is thus a need to monitor what is happening via these funding arrangements against the axes of discrimination.

### Hospitality

The UK’s hospitality sector currently employs over 250,000 migrants (2006 data), which is equivalent to about 22 per cent of total employment and double the contribution migrants make to overall employment in the UK economy (11 per cent)

(Matthew and Ruhs, 2008). Although two thirds of the migrant workforce in the hospitality sector is still made up of non-EU nationals, the proportion of A8 workers tripled from less than one per cent in 2004 (about 10,500 workers) to almost three per cent in 2006 (about 36,000 workers).

The sector is characterised by relatively low productivity, low wages (around 70 per cent of the national average, Office for National Statistics (ONS), 2005), high turnover rates (currently estimated to range from 30 to 50 per cent) and high vacancy rates. The workforce comprises relatively high proportions of women (just over half), the young (just over half are under the age of 30), part-time workers (almost half), and full-time students (a fifth). Table 6.4 shows these differences across the different parts of the sector.

**Table 6.4 Employment, place of birth and ethnicity of workers in the three top industries in the UK's hospitality sector, 2006**

	<b>Restaurants</b>	<b>Bars</b>	<b>Hotels/Motels</b>	<b>Total</b>
<b>Total employment</b>	495,306	260,439	239,819	1,233,970
<b>Place of birth</b> (column %)				
<b>UK</b>	67.6	92.9	79.6	78.5
<b>Other EU15</b>	3.6	2.2	4.6	3.5
<b>EU8</b>	3.2	1.5	3.9	2.9
<b>EU2</b>	0.8	0.0	0.0	0.4
<b>Non-EU</b>	24.8	3.3	11.8	14.6

*Source:* Matthews and Ruhs, 2007, and LFS.

The performance of particular migrants is often generalised on the basis of entire nationality groups. Stereotyped portrayals of nationality, gender and race are deeply embedded within hospitality recruitment practices and the performance of (particularly front-line) work roles. The construction of nationality often takes precedence over gender stereotypes in recruitment decisions (Matthews and Ruhs, 2007). In a study in Brighton, Matthews and Ruhs found that migrants from Africa, the Middle East, Asia and the new EU member states were typically concentrated in back-of-house occupations, unlike the vast majority of those from EU15 countries (the 15 countries in the EU prior to 2004) and the Old Commonwealth, who staffed front of house.

The experience of ethnic and minority workers in the hospitality sector shows evidence of poor working conditions, with low pay, long hours, unpaid overtime, and poor health and safety standards (Wright and Pollert, 2006). Opportunities for promotion are felt to be inhibited by discrimination on the grounds of race, ethnicity, nationality or age, as well as the limitations imposed by work permit or visa rules

(Wright and Pollert, 2006). Bullying, verbal abuse and racial harassment are common (particularly in kitchens, where abuse sometimes has a racial element, with 'bloody foreigner' used as a term of abuse). Other problems include relationships with colleagues, poor English language skills and theft of property from work (Wright and Pollert, 2006). Racist abuse from restaurant customers is also regularly experienced by some waiters (Wright and Pollert, 2006).

These are some of the sectors, in addition to cleaning, construction and security, in which there are large numbers of vulnerable workers and the presence of migrant workers is higher. Although it is impossible to measure the exact number, around two million workers in the UK are estimated to be in vulnerable employment. This figure includes around 430,000 undocumented migrant workers, and 1,546,643 workers (62 per cent of them women) with no qualifications, temporary contracts, and with home as a base, and who are paid less than £6.50 per hour. Vulnerable employment has been defined as: 'precarious work that places people at risk of continuing poverty and injustice resulting from an imbalance of power in the employer-worker relationship' (TUC Commission, 2008: 12). Vulnerable work is insecure and low paid with little chance of escape.

On the basis of detailed statistical analysis of selected localities and regions, Jayaweera and Anderson (2008) found that recent migrants earn less than the minimum wage equivalent to their age bands. The likelihood of getting paid less than the minimum wage was greater for younger migrants, those from A8 and A2 countries, those with lower levels of English proficiency, women and those in more 'migrant dense' sectors such as hospitality, agriculture and construction. Migrant domestic workers were particularly vulnerable not only for reasons to do with gender and immigration status but because the private household is also their work site. Among the 687 workers registered between 2006 and 2008 with Kalayaan, an organisation that provides advice and campaigns on behalf of overseas domestic workers, the vast majority (94 per cent) work excessive hours and the majority (84 per cent) earn less than £500 per month, less than the minimum wage. Nearly one quarter of workers have experienced physical assault, while 66 per cent have been psychologically abused (including racist abuse and threats to harm themselves or their families).

The restrictions placed on many migrant workers' labour market flexibility, and their limited entitlements to out-of-work welfare benefit protections, combine to make migrant workers more vulnerable. The factors that affect the power imbalance between workers and employers include workers' legal rights, their terms and conditions of employment, and their personal characteristics (2008: 12). Many migrant workers are thus forced into vulnerable employment and irregular status by



immigration regulations.

## **6.2 Irregular migrants**

As we highlighted in Chapter 1, there is no reliable estimate of numbers of irregular migrants. Employment is possibly the area where differences in immigration status are most glaring. Participants in our discussion group (held with advisers working for the Praxis Undocumented Migrants Advice Project) told us that a cleaner with documentation, for example, could expect to be paid £6–£7.50 an hour. The project often deals with undocumented cleaners, working for employers who know their irregular status. They could expect to be paid £2–£3.50 an hour. ‘That’s real discrimination!’, commented one adviser.

Some migrants, while complying with immigration conditions, may experience problems with irregular employment. In *Mehmet t/a Rose Hotel Group v Aduma* (UKEAT/0573/06/CEA, UKEAT/0574/06/CEA, May 2007), the Employment Appeals Tribunal found that Mr Aduma had been discriminated against because he had been paid less than the minimum wage, been put under pressure not to apply for a National Insurance number and then unfairly dismissed: all actions which would not have been taken against a putative non-migrant worker. This constituted unlawful race discrimination as the employer had clearly targeted someone who was vulnerable because he was a Nigerian overseas student.

Another area highlighted as of concern, especially by the Chinese community, has been the targeting of immigration raids on businesses within certain communities. The Chinese Immigration Concerns Committee was set up in January 2008, and states:

In recent years we have seen an increase in immigration raids of Chinese catering businesses. Such raids had become more high profile, and threaten the good relation our community had cultivated with the authorities.

Everyone in our community has seen Chinese businesses destroyed by such raids. We have seen family assets wiped out, families criminalised, and skilled and hard-working men and women jailed or deported. The recent immigration raid in London Chinatown had triggered a business strike, street protest and a public meeting on 18/10/2007. Anger amongst Chinatown businesses can best be reflected by the action of the London Chinatown branch of HSBC. It had also observed and took part in the stoppage. As a result a number of actions points were agreed with the London and South East Region Border & Immigration Agency.

Such raids obviously raise the possibility that employers within certain communities are targeted and so face discrimination because they employ migrants. The employer civil penalty list, released on the UKBA website on 19 June 2008, outlines the 34 businesses which were subject to fines across the UK during May 2008. Business names suggest that 21 were either South Asian (Indian, Bangladeshi and Pakistani) or Chinese restaurants or takeaways, amounting to 62 per cent of all the fines. A further 7 per cent were Turkish businesses. Civil penalty fines incurred by businesses ranged from £5,000 to £22,500, for the employment of between one and three irregular migrants per employer. Details of the fines were also released to the media, generating significant local and national coverage. The basis on which UKBA targeted the employers in question for public penalty is not clear. Despite the high level of publicity, employer civil penalty fines related to a total of just 55 undocumented migrant workers.

This is an issue the Migrants Rights Network (July Newsletter)<sup>19</sup> raised in a private submission to the new Home Affairs Select Committee inquiry announced in June 2008: '69 per cent of UKBA civil penalties issued across the UK in May 2008 targeted small black and ethnic minority catering businesses, despite the fact that none of those penalised had employed more than three undocumented workers'. As they point out, it is highly unlikely that the estimated 500,000 undocumented migrants currently living in the UK are largely employed in the catering sector, but it is likely that such targeted enforcement presents a risk to integration at local level. Undocumented workers are more likely to obtain employment within the cleaning, food processing and packaging, and agricultural sectors, which are sectors often dominated by large sub-contracted companies.

The Migrant Rights Network (MRN) (24 June 2008) noted that the Commission for Racial Equality (CRE) had commented in its submission to the third reading in the House of Lords of the Immigration and Asylum Bill in 2006 that 'We believe that the provisions combating illegal working may stigmatise ethnic minorities in the workplace, impact on the employment of legal migrants and UK ethnic minorities, and have the potential to have adverse effects on good race relations'<sup>20</sup>. Instead MRN's study (2008) of the impact of the civil penalty regime on the employment of migrants suggests 'a more effective and humane solution' to the issue of undocumented workers worked, and includes earned regularisation, papers for undocumented workers in work and granting temporary works permits to those operating in the

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<sup>19</sup> See [www.migrantsrights.org.uk/enews/2008/july.htm](http://www.migrantsrights.org.uk/enews/2008/july.htm)

<sup>20</sup> CRE briefing to the House of Lords, third reading of the Immigration, Asylum and Nationality (IAN) Bill, 10 March 2006. See <http://83.137.212.42/sitearchive/cre/Default.aspx?LocID-0hgnew0bm.RefLocID-0hg00900f006.Lang-EN.htm>

'shadow economy'.

Irregular status and vulnerability also have implications for health and safety at work. McKay et al (2006) asked whether there are specific or general risks to migrant workers' health and safety and whether they are at increased risk, in comparison with other workers in similar positions. Migrants are more likely to be working in sectors or occupations where there are existing health and safety concerns, and their status as new workers may place them at added risk. This may be due to their relatively short periods of work in the UK, limited knowledge of the UK's health and safety system (and different experiences of health and safety in their country of origin), inability to communicate effectively (particularly in relation to their understanding of risk), lack of knowledge of their rights and how to raise concern, and unclear responsibilities for health and safety, in particular where workers are self-employed or are supplied by recruitment agencies or labour providers.

### **6.3 Recruitment agencies and gangmasters**

Agencies and gangmasters play an important role in shaping labour market norms. LFS analysis shows that, among recent migrants who were self-employed or not receiving wages directly from an employer, 13 per cent were paid by an agency compared with about five per cent in the entire LFS sample. For temporary workers, proportions of agency workers are much higher (Jayaweera and Anderson, 2008). A Trades Union Congress (TUC) survey has shown that over 50 per cent of temporary workers in manufacturing were employed by an agency, and over 20 per cent in transport (Anderson et al, 2007). In some areas, for example south Lincolnshire, agencies play an important role in supplying a flexible labour force for the fresh produce market and agriculture (Zaronaite and Tirzite, 2006). It is likely that agency workers are more likely to be exploited (Winckler, 2007) and that agencies may have an undesirable impact on employment opportunities (Green et al, 2005a, 2005b, 2005c, 2007). Many workers are recruited directly in the country of origin.

Agency staff are also used extensively in local government and in nursing. UNISON research in London in 2005 (Dawnay et al, 2006) found that 30,000 agency staff were employed by local government (including nearly 20 per cent of the workforce in one borough). They were not paid different rates, but savings were made on other costs such as pensions, holiday pay and sick pay. In some cases, as with social workers, they were paid more as a result of rounded pay-scales. Recruitment agencies are often used by the NHS, but may charge substantial fees for assistance to obtain a work permit and for placing people in supervised practice. There have been many instances of nurses believing they would be working in the NHS but finding themselves employed as care assistants in nursing homes, where they do not have access to the training necessary to be accredited as nurses in the UK (Bach,

2007). Since September 2005, the number of places available on the Overseas Nurses programme, which involves 20 days of NHS induction, has been limited to 8,000 per year.

Research undertaken for the TUC Commission (2008) investigated the reasons for employers and agencies using agency staff. Analysis of the 2004 Workplace Employment Relations Survey managers survey showed that 84 per cent of establishments reported using contractors and 12 per cent had temporary agency staff working for them, with only four per cent using three or more agency staff (Moley et al, 2008). The main reasons given were cover for short-term staff absence, vacancies, peaks in demand, maternity leave, long-term absences and job trials. A small in-depth study of 22 employers and agencies in health care, hotels, catering and food processing, where large numbers of agency workers and migrants are employed, found that the reasons for using agency staff differed between employers and agencies (Institute of Working Lives, as yet unpublished). Employers said they used flexible workers to cover needs at particular times, while agencies thought a prime consideration related to the terms of work that employers could offer: this approach also enabled employers not to have to deal with immigration regulations and they could thereby avoid potential sanctions. For work in the NHS, agencies typically screen applicants and complete the paperwork for nurses (Bach, 2007). However, in some sectors, such as poultry production, employers were using agency workers to fill what could be considered permanent work. This created a two-tier system based on differential pay and conditions of work (Bell et al, 2007). In some instances this can lead to migrant workers replacing indigenous workers and being blamed for undercutting wages.

Following the death of 23 Chinese cockle pickers in Morecambe Bay in February 2004 (Song, 2005), the Government set up the Gangmasters Licensing Authority (GLA) in 2005 to curb the exploitation of workers in the agriculture, horticulture, shellfish-gathering and associated processing and packaging industries. From 1 October 2006, employers in these sectors have had to obtain licences, and there are now around 1,200 gangmasters licensed by the GLA. As at July 2008, 61 licences had been revoked. A study of GLA licences (Geddes et al, 2007) found that about 40 per cent of them were conditional, due to poor employment practices.

Gangmasters often provide accommodation and transport (Zaronaite and Tirzite, 2006). Many migrants have extra deductions for accommodation, uniforms, and transport to and from work taken from their pay (McKay and Winkelmann-Gleed, 2005; Zaronaite and Tirzite, 2006). Research has also revealed unfair treatment, mostly by gangmasters, with migrants not being paid during holidays, having illegal deductions made from their wages, having accommodation and employment linked

to the job, and with different nationalities being sometimes paid different rates for the same work (Zaronaite and Tirzite, 2006).

#### **6.4 Equality groups, migration and employment**

This section examines some of the social divisions resulting in unequal employment outcomes. There is a large literature on ethnic minorities and minority women and employment but much less systematic study of migrants and employment, although some of the sector studies are beginning to provide more detailed information on inequalities in conditions of work, pay and status of recent migrants.

##### **Gender**

Economic activity – participation and unemployment – varies enormously by gender and nationality. Some groups of women have entered largely as family members (Bangladeshis) or asylum seekers (Somalis), and have low levels of participation in the labour market (see Table 6.5). This applies to those who have lived in the UK for many years as well as recent arrivals (Kofman et al, 2008), and is particularly the case for those with low levels of educational qualifications. Men in these groups also experience higher levels of unemployment. The table also shows that, with the exception of Irish and Australian women, unemployment among foreign-born and ethnic minority females is higher and in most of cases double that of UK-born females.

**Table 6.5 Economic activity by nationality and gender (per cent)**

	Male			Female			All		
	employed	unemployed	inactive	employed	unemployed	inactive	employed	unemployed	inactive
UK	66.2	3.9	29.9	53.9	2.7	43.4	59.8	3.3	36.9
Australia	88.0	3.5	8.5	80.2	2.0	17.8	84.0	2.7	13.3
Bangladesh	62.0	8.0	30.0	15.4	5.1	79.5	38.2	6.5	55.3
China	44.7	5.4	49.9	46.2	7.2	46.6	45.5	6.4	48.1
Poland	87.8	3.8	8.3	70.7	5.9	23.4	80.2	4.7	15.1
Portugal	80.4	11.3	8.3	53.2	7.6	39.2	65.9	9.3	24.8
India	82.2	4.3	13.5	51.0	5.3	43.7	66.2	4.8	28.9
Nigeria	76.5	7.9	15.6	54.4	11.4	34.2	66.5	9.5	24.0
Somalia	15.4	27.1	57.5	7.1	5.6	87.3	10.0	13.1	76.9
Ireland	51.4	2.6	46.1	44.0	1.9	54.1	47.2	2.2	50.6
<b>Total</b>	<b>66.5</b>	<b>4.1</b>	<b>29.4</b>	<b>53.8</b>	<b>2.8</b>	<b>43.4</b>	<b>59.9</b>	<b>3.4</b>	<b>36.6</b>

Source: LFS, 2006 (annual average of four quarters) – all people population 16+

Several studies focus on the intersection of gender and migration. McKay et al (2005) explored the scale and demographics of migrant workers in the East of England, their age and gender, their levels of education and skills and the transferability of those skills, issues related to language and communication, and a range of work-related issues. A key finding was that the labour market experiences of male and female migrants reflected traditional labour market divisions between the sexes. Women were more likely to be found in the ‘caring’ sectors of employment and men in the ‘heavy’ or manual sectors. Thus migrant labour is on the whole likely to experience the same occupational segregation as the rest of the UK labour force: on that basis, migrant women workers are likely to encounter greater discrimination in the workplace, compared to male migrant labour. However, there are also more male migrants, for example Zimbabweans, in feminised sectors such as care (McIlwaine et al, 2006; McGregor, 2007).

In relation to deskilling, as evidenced by the percentage of degree holders in managerial and professional posts (Table 6.6), women migrants are generally less likely to be in such employment. However, this varies by nationality, with a higher percentage of Bangladeshi women in such employment. Among new arrivals, such as the Polish, both men and women experience deskilling, but women to a much greater extent (Drinkwater et al, 2006; Sriskandarajah et al, 2007).

**Table 6.6 Workers with a degree<sup>1</sup> working as managers or professionals<sup>2</sup>, by nationality and gender (per cent)**

Nationality	Males	Females	All
UK	86.7	80.7	83.9
Australia	96.6	93.2	95.0
Bangladesh	59.8	81.1	69.4
China	62.1	61.7	61.8
Poland	40.0	28.6	35.4
Portugal	47.3	45.3	46.6
India	78.9	69.7	76.3
Nigeria	71.7	82.8	74.9
Ireland	87.2	92.1	89.7

Source: LFS, 2006 (annual average of four quarters).

Notes: <sup>(1)</sup> People whose highest qualification is a degree or equivalent.

<sup>(2)</sup> Occupation group 1, 2 or 3 (see Table 6.1).

New divisions are emerging both between women and men, and among women themselves, on a range of dimensions, especially skill levels (Kofman et al, 2005). As a result, women may accrue very different bundles of rights, have different settlement outcomes, and experience migration and settlement in very different ways. We have seen that the proportions of women and men entering through different routes differs, and that the valuation of skills embedded in each tier of the points-based system

(PBS) also has gendered implications for stratified rights of employment and residence. Though both tier 1 and 2 may lead to settlement, tier 2 is much more restrictive in tying the migrant to the sponsor and specific job. The emphasis on salary in tier 2, especially for non-shortage occupations, is likely to be highly problematic for care jobs. On the other hand, if care is consigned to tier 3 as a supposedly less-skilled job, this tier will most likely be treated as a non-settlement guest-worker route (see Chapter 1).

The WRS data includes information about the numbers of dependants by workers on the scheme (Table 6.7). The number of child dependants doubled each year between 2004 and 2006, so increasing the possibility that A8 migrants also experience the ‘mothers’ employment penalty’, that is, loss of earnings due to having children.

**Table 6.7 Registered workers’ dependants, by year of application**

Period	Total registered workers	Registered workers with dependants	Number of dependants		
			Under 17	17 and over	Total
2004	125,880	5,485	4,455	4,070	8,525
2005	204,965	10,695	8,510	7,775	16,285
2006	227,865	19,790	16,495	13,410	29,900
2007	206,965	19,605	17,840	12,715	30,550

Source: UKBA et al, 2008.

### **Ethnicity**

Much of the literature on inequality in employment does not distinguish between ethnic minorities and migrants (Age Concern, 2003; Berthoud and Blekesaune, 2007). Among ethnic groups, there is a proportion of more recent migrations, for example among Africans and in Asian groups, where there is continuing labour and family migration. It is possible that allegedly ethnic employment penalties (Berthoud and Blekesaune, 2007) could in fact be to some extent migration penalties, related, for instance, to a lack of recognition of their qualifications.

### **Age**

There is some data on age and employment from the WRS, as shown in Table 6.8. As expected, this is largely a young workforce, and the proportions in different age groups have not varied significantly over the three years of operation, although in 2007 the number of older workers increased slightly, at a time when that of younger workers began to decline.



**Table 6.8 Workers Registration Scheme: age of registered workers, by year of application**

Period	<18	18-24	25-34	35-44	45-54	55-64	65+	Others	Total
2004	320	54,355	49,835	12,655	7,425	1,020	20	260	125,885
2005	655	89,815	78,295	21,760	12,575	1,560	20	285	204,965
2006	740	99,735	88,115	23,190	13,875	1,885	25	305	227,855
2007	940	87,295	78,740	22,935	14,380	2,370	50	265	206,965

Source: WRS (Management Information from BIA).

Because there is so little data, it has been impossible to look at either age or disability discrimination in relation to migrants in the labour market.

### Sexual orientation and employment

As noted above, none of the datasets used includes information about sexual orientation. Studies like that of Hunt et al (2007) record experiences of discrimination against lesbian, bisexual, gay and transgender (LGBT) people within the workforce. Although newspaper reports have picked up on a significant LGBT component in Polish migration to the UK, both *The Observer* (July 2007)<sup>21</sup> and the *Daily Mail* (June 2007)<sup>22</sup> attribute it to repression by the Polish government and persecution sponsored by the Catholic Church among others. It has not been explored further in any of the studies on recent Eastern European migration.

## 6.5 Conclusions

There is a great deal of evidence that the employment of migrants in the UK is segregated in many areas of the labour market and there are startling differences in the occupational status of some migrant groups. It is possible that some research that has highlighted gender, race or even religious penalties in employment may actually have been observing migration penalties. The fact that so many highly skilled migrants are working in low-skilled occupations is of concern: it is likely that some of this reflects discrimination in the labour market. The 'personalisation' of care previously provided by local authorities, voluntary bodies and private providers, which is now increasingly provided via individual budgets and care workers employed directly in the home, needs careful and sensitive monitoring because it may lead to widespread discrimination: liaison on this is needed with the Social Care Institute for Excellence and local government bodies.

The situation of irregular migrants and vulnerable workers in employment is of great concern and needs further consideration, especially since exploitation is now

<sup>21</sup> See [www.guardian.co.uk/world/2007/jul/01/gayrights.uk](http://www.guardian.co.uk/world/2007/jul/01/gayrights.uk)

<sup>22</sup> See [www.dailymail.co.uk/pages/live/articles/news/worldnews.html?in\\_article\\_id=463299&in\\_page\\_id=1811](http://www.dailymail.co.uk/pages/live/articles/news/worldnews.html?in_article_id=463299&in_page_id=1811)

recognised as a form of discrimination. As the law stands, it is likely that this cannot be challenged by individual workers if they have voided their contracts by working irregularly. The use of human rights legislation to challenge extreme exploitation may be possible and should be explored.

The TUC has made suggestions concerning the establishment of a Fair Employment Commission, improved union representation, a review of the immigration system relating to low-paid workers, guaranteeing rights down the supply chain, tighter regulation and protection in businesses where risks are highest.

## 7 Housing

Literature on housing and migrants in the UK is not plentiful, and what there is generally conflates newer migrants with those settled in the UK for much longer periods (such as the migrants from new Commonwealth countries who form the basis for many studies published on ethnic minorities, discrimination and housing in the UK) or the more recently arrived refugees and asylum seekers.

There is also a particular difficulty in that what data is available about housing tenure is not necessarily going to tell us much about discrimination. Access to social housing, for example, is determined by eligibility (based on immigration status) and need (homelessness, overcrowding, etc), but may also be subject to discrimination. Without the figures on who has applied, however, we cannot actually look at discrimination, because first comes the choice to apply for social housing, and while that choice may also be determined by access (or lack of it) to good advice and information, a much more important factor is income and capital: those with money will generally choose either home ownership or the upper end of the private rented sector. There are also significant regional and local variations: the (declining) availability of hard to let social housing in some areas enables access to a wider group (although not the ineligible, however hard to let, except via asylum support arrangements). Scotland and Wales, in addition, have different legal frameworks for eligibility for housing and homelessness services.

### 7.1 Housing eligibility

Regulations enabled by the Housing Act 1996 set out who can be housed by local authorities, or by their referrals to housing association vacancies. Local councils are expected to check on this when people apply to go onto housing waiting lists or registers. Regulations also cover who can get emergency housing if homeless. The Welsh regulations are different, and Scottish housing law is distinct, and each has their own restrictions on eligibility (see below). All local housing authorities are, however, required to ensure that free housing advice is available to all in their area, irrespective of immigration status.

The English eligibility regulations exclude all non-European Economic Area (EEA) nationals except those with refugee status and other forms of leave granted through the asylum system and those who have indefinite leave to remain (that is, settled status). Thus those on limited leave as work permit holders, highly skilled migrants, spouses etc are not eligible. EEA nationals are only eligible if they have certain rights to reside in the UK, essentially those gained through work, self-employment, study and self-sufficiency. Family members of EEA nationals enjoy the same rights. There are specific rules covering workers from the 10 accession states in their first year in

the UK labour market, which make them eligible if they are compliant with the relevant registration or authorisation scheme but, unlike other EEA workers, they stop being eligible if they stop working. In other respects, the rights of accession state nationals are the same as for other EEA nationals.

Welsh eligibility regulations are different, and specifically enable accession state migrants to apply for housing waiting lists and homelessness assistance irrespective of employment, registration or authorisation. Scottish regulations were similar, but amendments to bring them into line with the English ones were brought forward in July 2008.

To go on a waiting list for housing, an applicant simply has to be eligible. To get help as homeless, an applicant must also pass a series of other tests, principally that she or he is 'in priority need' because there is a child, pregnant woman, elderly, disabled or vulnerable person in their household. The eligibility rules state that an applicant will not be in priority need if the child or pregnant woman etc are not themselves eligible.

This rule particularly affects families adversely where, for example, the woman has come from abroad to join her husband, is now pregnant, and the family need to get help when they become homeless, or where the children are of a different nationality to the father or mother. This creates a situation where a British national or settled person may be discriminated against because he has chosen to marry a foreign national, or because his children are not British or settled. In the case of *(Morris) v Westminster City Council* [2006] 1 WLR 505, this was found to be incompatible with European Convention on Human Rights (ECHR) Article 14 because it constituted discrimination on the grounds of nationality (Ms Morris was British and her daughter Mauritian, so Westminster City Council refused to offer her emergency help as homeless). Two years after the case, the Government has now proposed amendments to the Housing and Regeneration Bill to deal with this incompatibility (which had been the subject of repeated comment by the Joint Committee on Human Rights). The amendment, however, proposes to create a new class of semi-eligible 'restricted' people from the hitherto ineligible family members and to allow local councils to meet their duties to such people by getting them an offer of private rented accommodation. This would appear to continue to discriminate and so potentially may not resolve the incompatibility. It also applies only to those not subject to immigration control (that is, UK nationals, people with right of abode and EEA nationals with rights to reside) and so excludes many migrants.

Another group affected by the restrictions on eligibility are those (almost always women) fleeing domestic violence who apply for indefinite leave under the 'domestic

violence rule'. The problem is explored in more detail in the chapters on care and social services (Chapter 9) and income and benefits (Chapter 12).

## 7.2 Housing tenure

Statistics about tenure, rent levels and income are available from the various housing surveys carried out at national level, but none of these include country of birth, date of arrival or nationality (except the 'English, Scottish, Welsh, Irish, Other' collected by the English House Condition Survey), and so cannot provide information about migrants. Table 7.1 shows that the percentage of people living in 'non decent' homes has fallen, but remains higher among people from those described as 'ethnic minority households' and defined as 'households where the respondent defines their ethnicity as something other than white' (DCLG, 2007).

**Table 7.1 Percentage of people living in 'non decent' homes, England, 1996–2005**

	1996	2001	2003	2004	2005
White households	43.1	33.6	29.8	27.9	26.0
Ethnic minority households	51.5	39.9	35.3	33.0	30.6

Source: English House Condition Survey, 2005.

The Census collects data on country of birth but published data in housing reports only relate to ethnicity. Table 7.2 notes higher than average rates of overcrowding among all groups other than White British.

**Table 7.2 Percentage of people living in overcrowded accommodation, by ethnicity, UK, 2001**

Ethnicity of HRP <sup>1</sup>	Occupancy rate -1 or less <sup>2</sup>
All people	7.0
White British	5.3
White Irish	10.1
White Other	16.9
Asian: Indian	18.8
Asian: Pakistani	25.8
Asian: Bangladeshi	43.8
Black Caribbean	18.6
Black African	42.2
Chinese	23.8

Source: Census 2001

Notes: <sup>(1)</sup> HRP: Household Reference Person.

<sup>(2)</sup> The occupancy rating provides a measure of under-occupancy and overcrowding. For example, a value of -1 implies that there is one room too few and that there is overcrowding in the household. (This assumes that every household, including one-person households, requires a minimum of two common rooms, excluding bathroom.)

The Continuous Recording (CORE) data (on who has been offered new tenancies by all registered housing associations and most local authorities, but with some significant gaps) has recorded nationality since 2007, and now publishes these figures, but with no national totals. The published national data show that ethnic minority tenants in general needs and supported housing lettings account for around one in five of all tenants (Tables 7.3 and 7.4).

**Table 7.3 CORE national overview, England, 2006/7**

General needs lettings					
Year	Number of GN Lettings	Lone adult households (%)	Tenants in full employment (%)	Ethnic minority tenants (%)	Statutorily homeless households (%)
2007/8	198,925	34.7	22.2	22.2	18.9
2006/7	191,186	34.8	21.8	17.7	19.1
2005/6	156,387	34.5	24.0	17.0	18.7
2004/5	162,357	32.9	22.5	17.4	17.5

Source: CORE data, 2008/9.

**Table 7.4 CORE national overview, England, 2004–8**

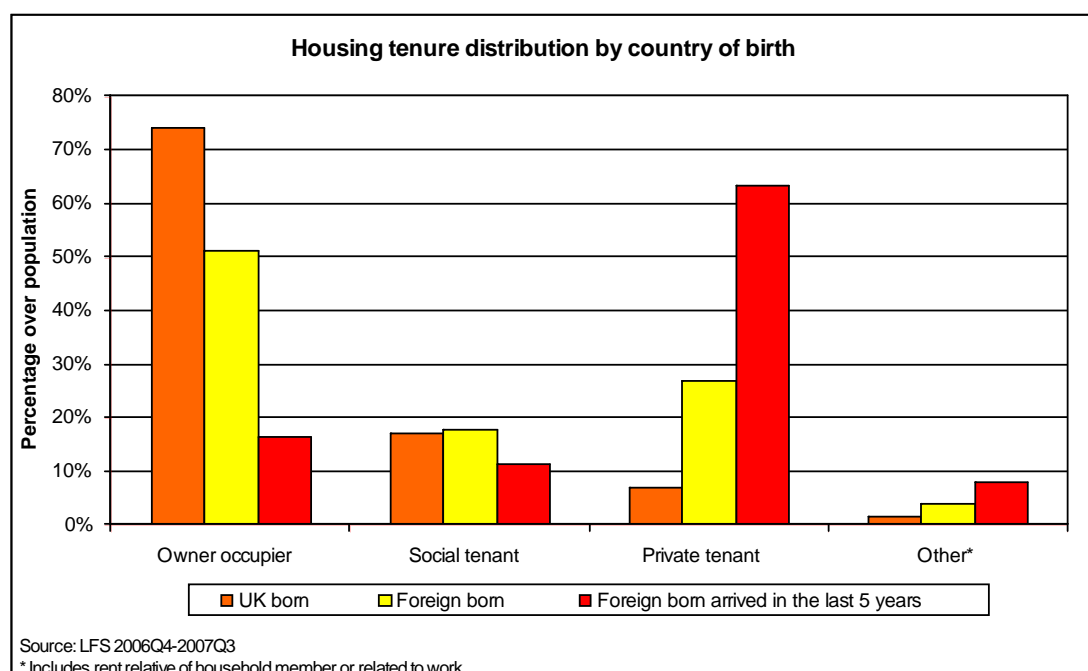
Supported housing lettings						
Year	Number of lettings	Number of units	Lone adult households (%)	Job Seekers (%)	Ethnic minority tenants (%)	Statutorily homeless households (%)
2007/8	107,252	3,727,399	54.2	23.8	19.6	20.0
2006/7	103,515	3,518,628	57.6	25.3	19.3	18.9
2005/6	96,896	3,180,423	60.9	28.2	20.8	17.7
2004/5	66,576	2,061,646	73.8	35.2	26.8	19.0

Source: CORE data, 2008/9.

The Institute of Public Policy Research (IPPR) has done some useful work on tenure using the Labour Force Survey (LFS) data (which includes information on tenure and country of birth) over a one-year period, which they have prepared for use later in a report commissioned by the Commission on social housing allocations and migrants (Rutter and Latorre, forthcoming). Figure 7.1 shows that new migrants are concentrated in the private rented sector, but also that the percentages of new migrants, foreign-born and UK-born, in social housing are quite similar, at 11–18 per cent. The data does not distinguish between types of migration, but it is reasonable

to assume that a high proportion of the 11 per cent of new migrants in social housing arrived as asylum seekers or refugees, as they are eligible and more likely to apply for social housing since they arrive with few housing resources and have access to more information about housing options.

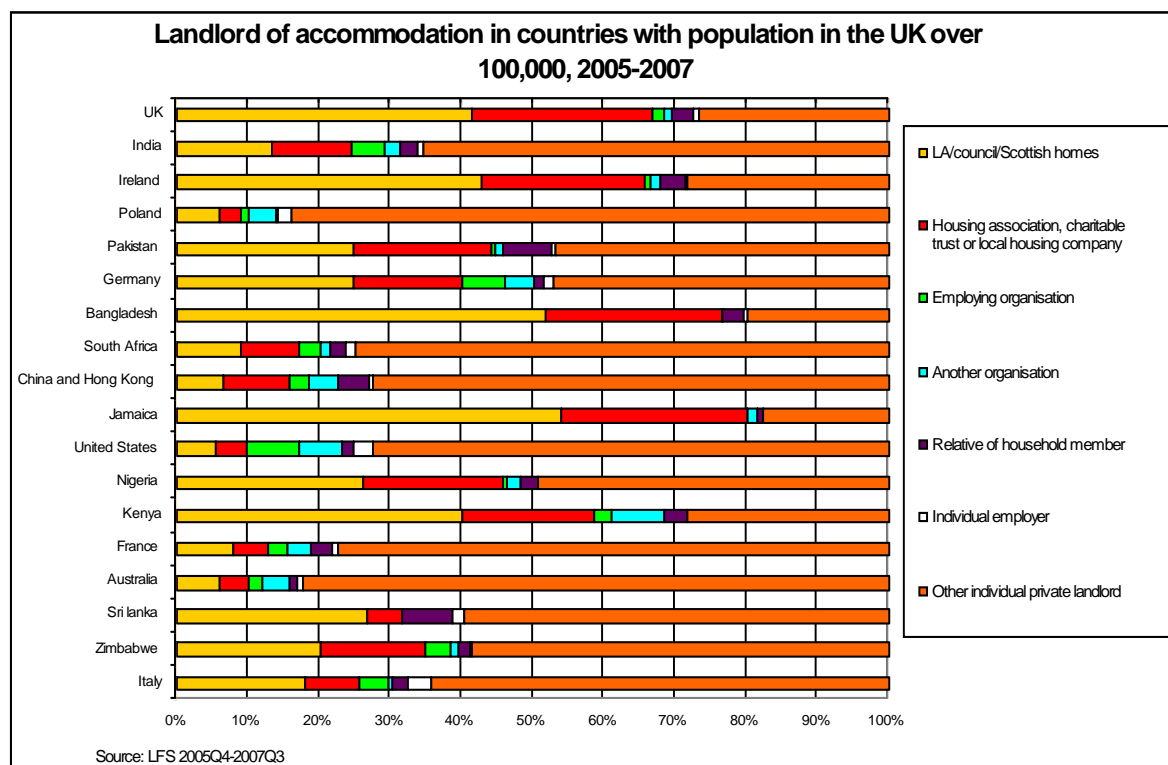
**Figure 7.1 Housing tenure and country of birth, UK, 2006/7**



Source: LFS and IPPR calculations (IPPR, 2007).

The IPPR has also produced landlord breakdowns for those renting by country of birth, which enables us to look at some populations more likely to be migrants (although these are not identified by recent arrival). For these, they have used LFS data over two years (because the sample size would not otherwise be adequate): see Figures 7.2 and 7.3. However, the figures need to be treated with some caution because, even here, the numbers to produce percentages at the lower end will be small. They do provide some interesting contrasts. Those born in Europe (with the usual exception of those born in Germany, including a proportion of children of UK overseas forces personnel) have significantly lower percentages in council or housing association accommodation than the UK-born, with a lower proportion still for those born in Eastern European countries. This would reflect both the more recent arrival (since access to social housing is often via time on waiting lists) and the more restricted legal rights of those from accession countries. Non-European migrants reflect the varieties of experience, prosperity and entitlement explored above: those born in Bangladesh, Jamaica, Afghanistan and Somalia, for example, have a higher percentage in social housing than the UK-born, probably reflecting both eligibility (due to refugee status, long residence or citizenship) and poverty. Most other people born abroad have significantly higher percentages in the private rented sector.

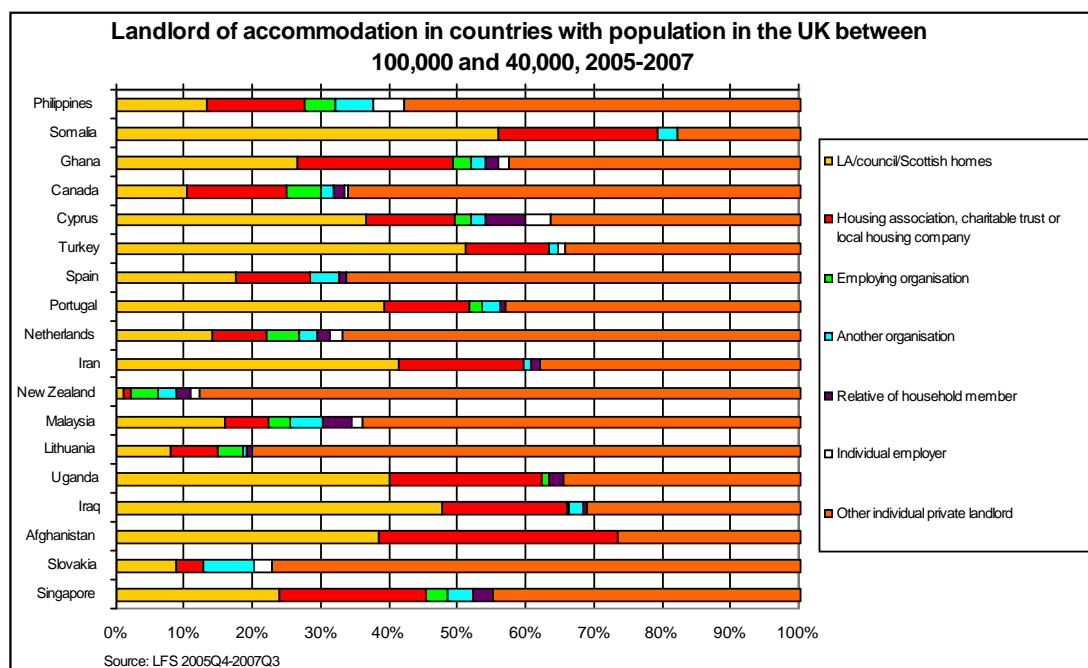
**Figure 7.2 Rented accommodation landlords and nationalities (over 100,000), UK, 2005/7**



Source: LFS and IPPR calculations (IPPR, 2007).



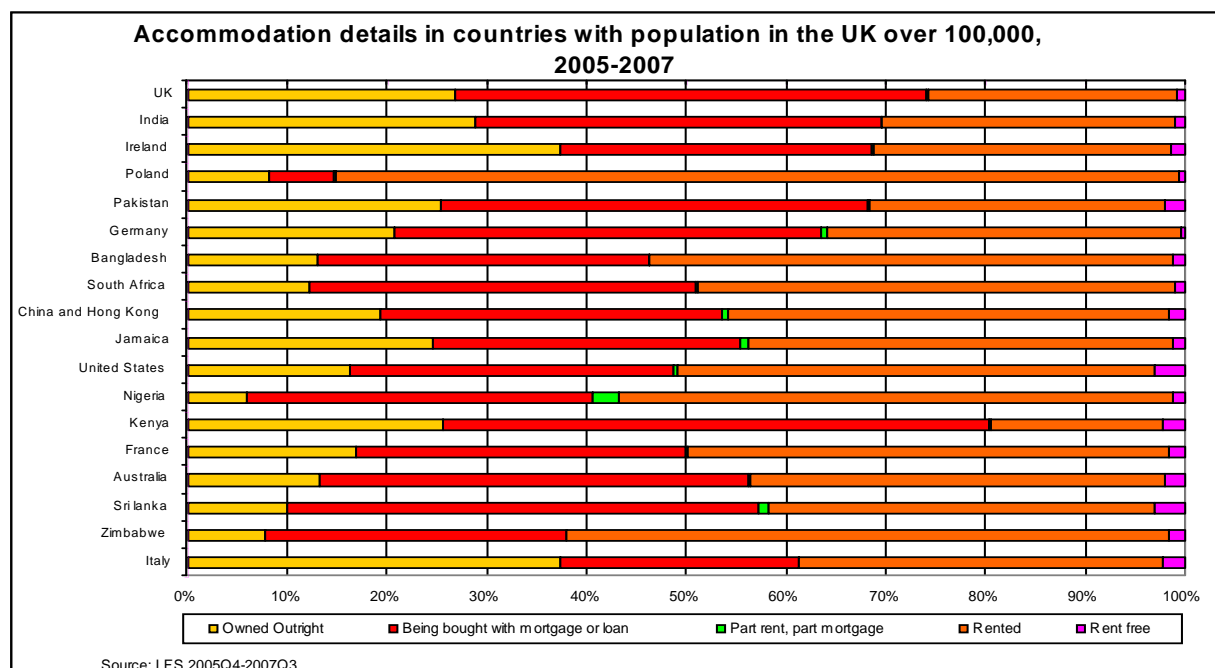
**Figure 7.3 Rented accommodation landlords and nationalities (40–100,000), UK, 2005/7**



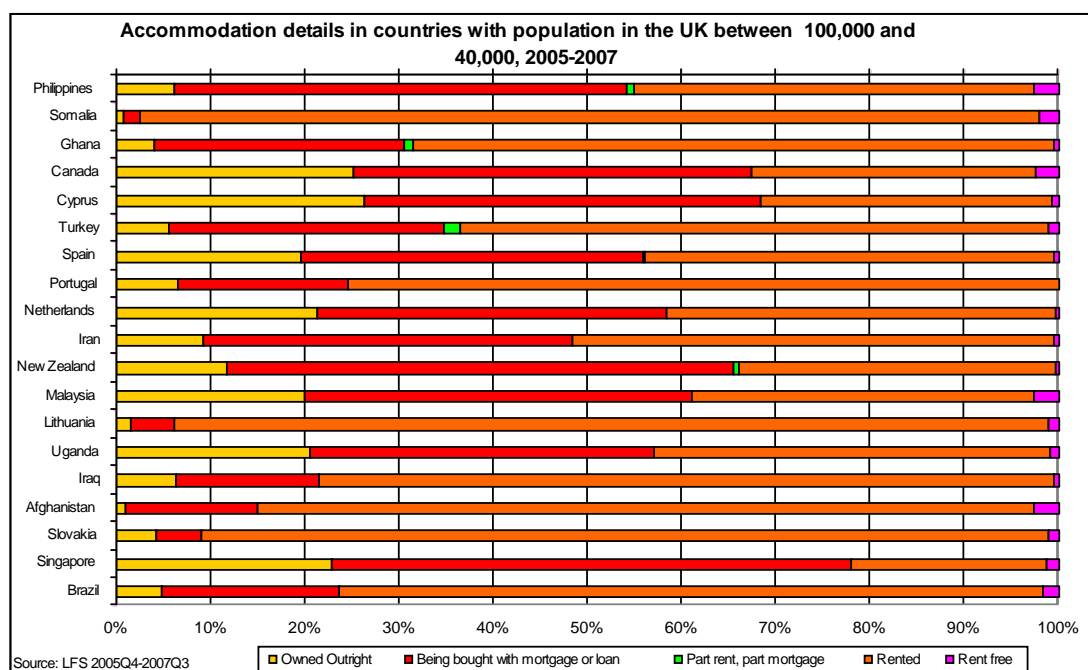
Source: LFS and IPPR calculations (IPPR, 2007).

The same LFS data has also been used to look at tenure (Figures 7.4 and 7.5). Only two groups (those born in Kenya or Singapore) match the UK percentage in owner occupation, all others having a higher percentage in rented accommodation. Those born in India, Ireland and Italy, however, have a higher percentage who own outright.

**Figure 7.4 Tenure by nationality over 100,000, UK, 2005/7**



Source: LFS and IPPR calculations (IPPR, 2007).

**Figure 7.5 Tenure by nationality 40–100,000, UK, 2005/7**

Source: LFS and IPPR calculations (IPPR, 2007).

The proportion of migrants in social housing, therefore, is relatively low, but there are significant differences between different groups of migrants. As shown in Table 7.5, some countries from which refugees and asylum seekers are more likely to come have higher proportions in social housing than the UK-born, while nationalities comprising mainly economic migrants are more likely to have lower percentages in social housing.

**Table 7.5 Proportion of population living in social housing in Britain, by country of birth, 2005/6**

Rank (in ascending order)	Country of birth	Percentage living in local authority or housing association housing
1=	Australia	5
1=	France	5
1=	USA	5
4=	Poland	8
4=	India	8
4=	South Africa	8
4=	Canada	8
8	China	9
9	Italy	10
10	Kenya	12
11	Sri Lanka	14
12=	Pakistan	15
12=	Philippines	15
14	Cyprus	16
<b>15</b>	<b>UK</b>	<b>17</b>
16	Zimbabwe	20
17=	Republic of Ireland	21
17=	Uganda	21
19	Nigeria	29
20	Iran	33
21	Jamaica	35
22	Ghana	39
23	Portugal	40
24	Bangladesh	41
25	Turkey	49
26	Somalia	80

Source: LFS and IPPR calculations (IPPR, 2007).

### 7.3 Homelessness

As noted above, immigration status is a determinant of eligibility for homelessness services in the UK. Applications on the grounds of homelessness are, of course, an indicator of poverty, since those who can use their own resources do so, in order to avoid applying as homeless, with the attendant uncertainty, stigma and possible long periods in temporary accommodation. Local councils accept a duty to rehouse as homeless only those who are:

- Eligible (in terms of immigration status and habitual residence).
- Legally homeless (that is, with no suitable accommodation available anywhere in the world).

- In priority need (with a child, pregnant woman or vulnerable person in the household).
- Not intentionally homeless.

Homelessness has been a significant route of entry into council housing in areas of high demand. The (Department of) Communities and Local Government (DCLG) publishes information about applications for homelessness services in the quarterly P1E returns, but these set out the total number of applications from people of ethnic minority origin only. Table 7.6 shows that applications for homelessness assistance have been declining over the last two years (as policies and practices designed to divert applicants have begun to bite). Ethnic minority applications, however, have not been declining as fast and now constitute almost half of all applications.

**Table 7.6 Statutory homelessness, by ethnicity, England**

Period		Total	Minority Ethnic	% of total
2006	Q2	93,910	41,160	44
	Q3	93,090	40,750	44
	Q4	89,510	39,160	44
2007	Q1	87,120	38,610	44
	Q2	84,900	38,770	46
	Q3	82,750	38,710	47

*Source:* DCLG Quarterly P1E returns.

DCLG also publishes P1E data collected about applications made by A8 migrants in the quarterly Accession Monitoring Reports. Since there is a lot of anecdotal evidence that widespread discrimination occurs against such applicants (who are routinely turned away unless they have worked and been registered on the Workers Registration Scheme for a year in the UK, in spite of DCLG guidance telling local authorities firmly that while working during this time they are eligible) and, since there are few applications anyway, the use of these figures is limited. The monitoring returns for A8 nationals to June 2007 show that identified accession country migrants made up 0.4 per cent of homelessness applications overall (an increase from 0.2 per cent in 2004 to 0.6 per cent in 2007). However, not everyone who applies as homeless receives an offer of accommodation; indeed in 2006/7 only 47 per cent were assessed as cases where the local authority has a duty to house. As Table 7.7 below shows, for A8 nationals since 2004, this proportion is much lower: only 35 per cent of the applications were accepted and so resulted in the local authority offering accommodation.

**Table 7.7 Homelessness applications by A8 nationals, 2004–7, England**

<b>Period</b>	<b>Main duty owed to applicant</b>	<b>Applicant not owed a main duty</b>	<b>Total</b>
2004	178	277	455
2005	206	365	593
2006	319	625	944
2007 q1	98	182	280
2007 q2	90	156	246
<b>Total</b>	<b>893</b> (35%)	<b>1,625</b>	<b>2,518</b>

Source: P1E data, DCLG

The difference between the overall acceptance rate of 47 per cent and the 35 per cent for A8 nationals warrants further examination.

#### **7.4 Recent research and evidence**

As noted in Chapters 3 and 5, Bolton Metropolitan Borough Council (MBC) now monitors on nationality for all housing applications, an initiative in part stimulated by the arrival of new migrants in the area, identified as principally Eastern European and also secondary migrants from Europe, mainly Somalis. Bolton MBC also has a growing refugee population, through asylum dispersal and the government-sponsored Gateway refugee protection programme which brings United Nations recognised refugees directly to the UK from refugee camps in Africa and Asia. It has also commissioned research into these new migrant communities, which focuses on housing (among other issues) and will report shortly. Bolton MBC is also involved in an Opening Doors project by the Housing Associations Charitable Trust, supported by the Housing Corporation and DCLG, which aims to improve housing association service delivery to migrants and refugees. It reports a lot of anecdotal evidence that associations refuse to house working migrants or those with time limits on their stay, even though they are not constrained by eligibility legislation and such refusals are likely to constitute indirect but unlawful discrimination.

There is also concern that some communities may be particularly vulnerable to exploitation by poor landlords in the private sector, and that there may be distinct ethnic differences. In Glasgow, Sheffield and Bolton, Roma communities from different accession states have been reported as living in particularly overcrowded conditions without access to basic facilities. They face difficulties in accessing advice and advocacy to deal with the undoubted housing problems they encounter. Language barriers are made worse by literacy problems and are combined with a distrust of authority and local authorities' confusion over the eligibility of accession migrants. They also face double hostility from some sections within the local

community, both as a new hate subject (as Eastern Europeans) and an old one (as Roma).

A crop of new work on Eastern European migrants (Markova and Black, 2007; Spencer et al, 2007; Robinson et al, 2007; Phillimore et al, 2007) has provided some useful detail, especially in the two most recent studies that look at localities (Robinson in Sheffield and Phillimore in the East Midlands). Spencer found that 44 per cent of the migrants interviewed were sharing a room and a third of them had moved in the last eight months, although agricultural workers reported a higher level of satisfaction with their accommodation (which is more regulated) than others. Robinson examined the 'housing careers' of four groups of new immigrants: two mainly refugee communities (Liberian and Somali), one arriving to join a more settled community (Pakistani) and one new migrant (Polish). He identified typical 'housing careers' and found that:

- The housing situations and experiences of new immigrants represent a composite of the familiar experiences of various disadvantaged groups within the housing system.
- The opportunities for new immigrants to effect a positive change in their housing situation are distinct and different from those of other disadvantaged groups.

He identified the policy framework and legal system as key factors in this disadvantage, rather than, for example, cultural or locality factors. But he also pointed out that, until their longer residence begins to 'iron out' these legal differences, it will not be possible to see whether other discrimination, such as that on the grounds of race or religion, begins to have a greater impact. Although the samples were fairly evenly divided among men and women, no findings were made in relation to gender. All immigrants in the study were between 20 and 55 years old and none reported any disabilities.

Zaronaite and Tirzite (2006) reported migrants describing unfair treatment that is probably discrimination in the housing sector, mostly by estate agents. Migrant workers stated that estate agents refused to rent property to them without giving reasons and that they had been treated disrespectfully. Phillimore and Goodson (2008) looked in detail at A8 migrants in the East Midlands and found:

- Excessive rent levels and poor quality of accommodation.
- Poor knowledge about rights and entitlements.
- Local authority reluctance to deal with the housing needs of migrant workers (in relation to homelessness).

Other work has been less detailed or conclusive. Babaylan (2007) identified housing as a significant problem for women Filipina migrants. The Shelter (2007) report

looked at access to advice, but the small sample included a range of ethnic minority communities, not just migrants. Although they sought to interview significant numbers of young people (and some older ones) the report did not identify any specific problems or discrimination faced by different age groups. One informant cited religious discrimination as a factor, but this was then identified as a cultural barrier in the report. There are no references to sexual orientation in any of the work on housing and migrants studied so far. It is identified as a particular difficulty in terms of collecting data by workers with migrants, who report a reluctance by staff to ask the question and by service users to answer it.

## **7.5 Conclusions**

There is little available data that provides a reliable picture of housing conditions, pathways, decisions and outcomes for migrants. The available statistical data is partial, and does not tell us about the axes of discrimination, with the possible exception of race, with some information about nationality or country of birth. Research is similarly patchy, much of it focused on Eastern Europeans, and saying little about gender, age, disability, religion or sexual orientation.

The available figures and research point to likely discrimination in both the social and private sectors, and anecdotal evidence indicates similar problems in housing associations. The outcome is, as reported in various pieces of research, that many migrant communities live in very poor, insecure and overcrowded conditions.

## 8 Health

Research on health and migration raises a number of issues concerning the health and health care needs of migrants, and their access to and usage of services. However in the UK, the little research that exists has mainly focused on asylum seekers and refugees, with little on new migrants<sup>23</sup>. There is some evidence suggesting that migration generates distinct patterns of illness, arising from stress, isolation and lack of access to community and primary health services. Migrant workers are also believed to suffer twice the rate of workplace accidents and occupational disease as the rest of the population (Migrant Rights Network Scotland, 2008)<sup>24</sup>. Racist literature often focuses on the perceived health risks incurred by migration. The Health Protection Agency's first report on infectious diseases affecting migrants (Gilbert and Jones, 2006) is based on data from England, Wales and Northern Ireland for 2004 on non-UK born cases of a variety of infectious diseases. It shows that many migrants to the UK are at no greater risk of infectious diseases than the UK-born population.

This chapter examines the data available on migration and health, the specific needs of migrants, their differential access to and use of services and the extent to which we have knowledge about health inequalities in relation to social divisions.

### 8.1 Health and migrants: the data

Data on the health of migrants is hard to come by. The NHS does not collect information about the country of birth of the people who use its services. The UK Home Care Association noted that the Director General of Social Care at the Department for Health had recently described the social care sector as a 'data desert' (House of Lords, 2008). The Census, but not the Labour Force Survey (LFS), contains information on illness. Furthermore, recent migrants tend to be young and fairly healthy although they may also make specific demands on certain services, such as antenatal care and maternity services. The FLAG 4 data collected by the NHS (new registrations with GPs in each area) has proved a useful tool for estimating migration flows but, typically, quite a lot of new migrants, especially young

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<sup>23</sup> A European Union (EU)-funded project, Information network on good practice in health care for migrants and minorities in Europe, has begun to create a database of research which includes topics such as state of health, accessibility to and quality of health care, and sections on specific nationalities and categories, such as refugees, the undocumented, children, elderly, travellers and Muslims. For the section on the UK, see [http://mighealth.net/uk/index.php/Main\\_Page](http://mighealth.net/uk/index.php/Main_Page)

<sup>24</sup> Health services for migrants in Scotland – issues and concerns Roundtable discussion: Friday 29 February 2008. See <http://216.239.59.104/search?q=cache:fvmll-A36eQJ:www.migrantsrights.org.uk/files/mrnevents/scotlandroundtable.doc+Community+care+and+migrants+in+Scotland&hl=en&ct=clnk&cd=7&gl=uk&client=firefox-a>



men, do not register with GPs. It also tells us nothing about the state of health of those who register.

## 8.2 Health needs and risks

Migrants' health needs reflect the diversity of the group but they are mainly affected by individual characteristics (such as age, sex and ethnicity), country of origin and circumstances of migration, and socioeconomic conditions in the host country (Gilbert and Jones, 2006; Kelly et al, 2005). Young women, both those from Eastern Europe and those entering as family migrants, use health services during pregnancy (see section on gender).

Health risk can vary among groups. Trafficked migrants – including women who work in the sex industry – are particularly vulnerable to health risks, given their dependence on the trafficker. Some groups of migrants, particularly undocumented migrants, may be especially at risk of infectious diseases but have very limited entitlement to health services (Gilbert and Jones, 2006). Undocumented migrant workers are often exploited and work in unregulated or sub-standard conditions which have their own health risks (Kelly et al, 2005). Some research also shows that the increased risk of infection in some non-UK born populations is in large part related to the higher prevalence of specific infections in the countries from which they originate (Gilbert and Jones, 2006).

In relation to HIV/AIDS, Black Africans now represent the largest number of new diagnoses of all UK ethnic groups (Information Network on Good Practice in Health Care for Migrants and Minorities in Europe)<sup>25</sup>. Almost 25,000 people born in sub-Saharan Africa were estimated to be living with HIV in the UK in 2006, a proportion 50 times higher than whites. Black Africans constitute 70 per cent of heterosexual diagnoses, but only 1.3 per cent of diagnoses among men who have sex with men (Parliamentary Office of Science and Technology, 2007; Health Protection Agency, 2007). Although there exists a range of HIV prevention services available to African communities across England, there are limitations in HIV health promotion services (Chinouya, 2001) due to limited funding and capacity building, evidence-based interventions, use of traditional modes of communication on intimate issues, and limited inter-agency and inter-regional collaboration. The recommendations in the report by Chinouya (2001) were to:

- Encourage inter-agency collaboration.
- Improve the dissemination of information about HIV prevention services.
- Increase sustainable funding and capacity-building.

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<sup>25</sup> See [http://mighealth.net/uk/index.php/African\\_migrants\\_and\\_HIV](http://mighealth.net/uk/index.php/African_migrants_and_HIV)

### 8.3 Access

Migrants themselves do not make great demands on the health system but this begins to change with family settlement (Institute of Local Community Cohesion (iCoCo)/Local Government Agency (LGA), 2007). Research shows that migrant workers themselves are less likely to need a doctor (Zaronaite and Tirzite, 2006). However, registration to hospital services varies among groups. Australians, New Zealanders and EU citizens who come in on work and study visas are less likely to be registered with GPs than people coming from refugee-generating countries, who, despite obvious barriers to care such as language, are significantly more likely to be registered (Hargreaves et al, 2005). There are also problems in GP registration: some migrants find the UK health system too complicated and have difficulty registering with GPs; others prefer to use services in their home country rather than deal with the bureaucracy in the UK (IoCC, 2008). In a study of A8 migrants in the Grampians, most preferred to return home for the treatment of non-acute medical problems, as well as for dental care and visiting opticians, which were cheaper and perceived to be more easily accessible there (Communities Scotland, 2008).

The use of services by new migrants is influenced by a range of personal and organisational barriers. The very unstable lives of many migrants, especially those employed by agencies or gangmasters may disrupt the continuity of care and support (Taylor and Newall, 2008). Some groups have restricted access to particular forms of health care and this represents a stratification of rights to health care in the UK. For example, undocumented migrants and failed asylum seekers have to pay for all health services apart from those needed in an emergency or offered to facilitate infection control. They are also reluctant to use NHS services because they fear that the health services may report them to immigration authorities (Kelly et al, 2005). Regulations regarding entitlements to health and social care may result in high-risk health situations and poor health outcomes (Taylor and Newall, 2008). However, strengthening community-based approaches and the delivery of more appropriate services to new migrants could alleviate pressures on hospital services and improve health outcomes (Hargreaves et al, 2005).

The issue of entitlement is crucial. Other than in the case of certain exemptions, specific regulations require NHS trusts to charge for health care that is provided to anyone who is 'not ordinarily resident in the UK'<sup>26</sup>. This means 'someone who is lawfully in the United Kingdom voluntarily and for settled purposes as part of the regular order of their life for the time being, with an identifiable purpose for their residence here which has a sufficient degree of continuity to be properly described as settled' (Kelly et al, 2005). However, in 2003, abuse of access to NHS care became a

<sup>26</sup> See The National Health Service (Charges to Overseas Visitors) Regulations 1989. [www.hmso.gov.uk/si/si1989/Uksi\\_19890306\\_en\\_1.htm](http://www.hmso.gov.uk/si/si1989/Uksi_19890306_en_1.htm).

major issue for the Government. Though without any firm numbers or availability of a rigorous study, the Government introduced new regulations in April 2004 in order to combat 'health tourism', where migrants are said to come to the UK to access health care (BBC, 30 December 2003).

The regulations targeted: failed asylum seekers and others with no legal right to be in the country; overseas visitors; heavily pregnant women who live overseas coming to the UK just to give birth (even if their partner lives here) and business travellers to the UK and their dependants. These groups were to pay for treatment in NHS hospitals. As from 1 April 2004 failed asylum seekers and others with no legal right to be in the country were no longer to be treated; dependants of permanent residents in the UK were only entitled to free treatment if they were themselves permanently resident in this country; and business travellers and their dependants who fell ill while in the UK were not entitled to free treatment (Kelly et al, 2005). Access to secondary care was limited except for Accident and Emergency (A&E), infectious diseases such as TB, sexually transmitted diseases except HIV/AIDS, compulsory psychiatric treatment for those detained under the Mental Health Act and treatment deemed 'immediately necessary in the opinion of the clinician'. However, although patients are charged, they must be given treatment (Médecins du Monde, 2008). The Médecins du Monde study of 883 users of a health care project for migrants in London questioned the extent of health tourism (also see National Aids Trust 2008 for HIV/AIDS) and found that most of those they treated had been living in the UK for an average of three years and that, for many, the major problem was accessing GPs.

The recent case of *R (A) v West Middlesex University Hospital Health Trust* 2008] EWHC 855 (Admin) was in relation to a rejected asylum seeker, but it has a wider application for lawfully present and ordinarily resident migrants. It established that current Department of Health guidance allowing hospitals to refuse all but 'immediately necessary treatment' to some migrants unless payment was forthcoming was unlawful.

#### **8.4 Gender**

The main issue raised in relation to gender and health care is access to antenatal care and maternity services. Despite the restrictions, all women are entitled to antenatal care, which falls under the category of 'immediately necessary'. In the Médecins du Monde project, the largest single number of visits (118 in 2006–7, or 22 per cent) was for reasons of pregnancy, childbirth and family planning (Médecins du Monde, 2008). Many women had turned to the clinic to get help to access such care as well as terminations. Although the project was able to register their patients with GPs, many were refused access to free terminations. Thus exceptions to the 2004 regulations are not always applied in practice.

There is evidence of pressures on maternity services, where women arrive late in the pregnancy, making planning service provision difficult (IoCC/LGA, 2008). In some areas the increase in birth rates among migrants is said to have contributed to the closure of some units, so that midwives could be moved to areas of more urgent need<sup>27</sup>. The London Strategic Health Authority argued that the increase in the number of births to migrant women, and the fact that ‘births within migrant groups can often be more difficult, more dangerous and more expensive – with much higher rates of type 2 diabetes, tuberculosis and HIV among mothers who often turn up very late in their pregnancy’, partly explained why maternity services in London performed poorly. In central London, senior consultants and health managers put the blame for unacceptably poor standards on a lack of resources to deal with the pressures of migration<sup>28</sup>.

In their study of the impact of migration on maternal and infant health in the West Midlands, Taylor and Newall (2008) concluded that infant mortality was a significant problem among large migrant communities with high levels of deprivation. Although the data is poor, there is evidence that children of migrants have a higher stillbirth rate than those born to British mothers in Birmingham. Among the various migrant groups, women seeking asylum and the growing number of women with ‘No Recourse to Public Funds’ are particularly vulnerable. The authors recommend that ‘infant mortality strategy must take account of the needs of migrants, including developing methods to systematically monitor the impact of migration and immigration policy upon outcomes, and ensuring that services meet needs and that a multi-sector approach is required in order to address infant mortality within this group, as so many of the issues relate to the “wider determinants of health”’.

## **8.5 Sexual orientation**

No literature was found on sexual orientation, health and migrants. Even the literature on HIV/AIDS tends to focus separately on gay men, in isolation from other at-risk groups such as Africans, sex workers and injecting drug users.

## **8.6 Conclusions**

In spite of a great deal of concern about differential health needs and outcomes among migrants, there is very little data on migrants and health services as such. There is, however, substantial research evidence about the difficulties migrants may have in accessing appropriate services, which may itself then lead to strains on services because of late or inappropriate access (use of A&E instead of GPs, or late presentation of pregnant women to maternity services and hospitals). The long-term

<sup>27</sup> <http://news.bbc.co.uk/1/hi/health/7215624.stm>

<sup>28</sup> <http://news.bbc.co.uk/1/hi/health/7215624.stm>

effects of this may be played out over the second generation as they suffer the ill effects of a lack of appropriate health care around birth and in early years. The recent interest by the courts in health access cases may lead to some revision of rules about formal access. Any new guidance should fully encompass the need to provide a non-discriminatory service and one that is consistent with human rights.

## 9 Care and social services

Most of the recent literature on care and social services focuses on the employment of migrants rather than their access to social services and community care (Anderson, 2006; Kofman, 2007). At the same time, both large-scale quantitative and detailed studies of employment and use of services continue to use ethnic minorities categories (Eborall and Griffiths, 2008), which fail to give an indication of the changed composition of the different ethnic categories, whether in relation to employment or access and use of services.

Recent economic migrants, who are mostly young, are unlikely to require care services for themselves. Many studies of migrant workers do not raise this issue. An exception was a study of A8 migrants in Edinburgh (Orchard et al, 2007). Though few responded to a question about use of social care services, six replies revealed the kind of services that people had felt the need to access: these included services to meet the welfare needs of their children, mental health issues and learning difficulties. Only one out of the six had actually contacted a service, the other five citing reasons for non-contact such as not knowing where to look for assistance, not knowing about their entitlements to assistance, and language barriers.

### 9.1 Community care

Local authorities arrange for the provision of community care services, subject to an assessment of needs, but within a nationally determined legal framework. The law excludes some groups of people from receiving community care services, such as those subject to immigration control whose need arises solely from destitution (Section 115, Immigration and Asylum Act 1999), European Economic Area (EEA) nationals not exercising a treaty right in the UK, some failed asylum seekers, and those in breach of immigration laws (Schedule 3, Immigration and Asylum Act 2002). In all cases, however, care must be provided if it is necessary to avoid a breach of human rights, and this includes rights against inhuman and degrading treatment. The *Limbuela* case<sup>29</sup> determined that this included being left destitute if the migrant could not leave the UK (in cases such as asylum seekers still awaiting a final determination of their asylum applications). A national network of local authorities accommodating and supporting destitute people with no recourse to public funds was convened by the London Borough of Islington, and estimated in 2006 that most London local authorities spent at least £1 million per annum on such services, which attract no central government funding. There is no collation of the numbers of people refused

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<sup>29</sup> *Regina v. Secretary of State for the Home Department (Appellant) ex parte Adam (FC) (Respondent)* *Regina v. Secretary of State for the Home Department (Appellant) ex parte Limbuela (FC) (Respondent)* *Regina v. Secretary of State for the Home Department (Appellant) ex parte Tesema (FC) (Respondent)* (Conjoined Appeals) [2005] UKHL 66.

care under these provisions, but anecdotal evidence is that many are refused, often illegally. The decision by the court in the case of *R (Khan) v Oxfordshire County Council* [2004] EWCA Civ, which refused to instruct the local authority to pay the costs of a woman needing refuge accommodation out of community care resources, led to the Home Office writing a letter to all Chief Executives about similar cases, where women migrants had fled domestic violence and were waiting for the Home Office to grant them indefinite leave, asking them to 'be mindful that some victims of domestic violence could have needs for specific care and attention' (Southall Black Sisters, 2006).

Most care assessments refer to the older (post 65 years) population in which there are relatively few recent migrants and where the available information tends to be provided in terms of ethnic minority categories. However, the Labour Force Survey (LFS) provides some evidence, based on nationality, of differential disability rates, and therefore the need to access care services. Most migrant populations have lower disability rates than UK nationals (see Table 9.1). Among the over-45s in some migrant groups (Bangladeshis, Portuguese, Indians, Somalis and Irish), though, disability rates are substantially higher than among UK citizens. More research is required on the needs and take-up of social care services by disabled people, broken down by nationality, gender and age.

**Table 9.1 Percentage of people with disability (all kinds), by nationality and age, UK, 2006**

	16–29	30–44	45–59	60+	Total
UK/GB	10.6	16.2	28.5	45.2	25.9
Australia	2.1	7.3	8.9	10.7	5.7
Bangladesh	5.3	25.1	38.4	54.2	24.6
China	0.8	1.5	16.2	4.5	2.4
Poland	1.2	4.0	18.7	67.7	6.0
Portugal	4.8	9.6	31.9	51.2	13.3
India	1.4	5.	33.3	53.5	13.3
Nigeria	2.0	3.7	0.0	18.4	3.4
Somalia	10.1	14.4	53.6	54.5	21.1
Ireland	8.2	9.4	31.1	52.6	35.1
<b>Total</b>	<b>9.9</b>	<b>15.5</b>	<b>28.3</b>	<b>45.3</b>	<b>25.2</b>

Source: LFS, 2006 (annual average of four quarters).

In one study of those receiving community care services, 72 per cent had a 'physical disability, frailty or sensory impairment' and 83 per cent were over 65 years of age (Eborall and Griffiths, 2008). Of the over-65 year population, 1.7 per cent were Asian or Asian British, 1.3 per cent Black or Black British, 0.1 per cent Chinese, 0.1 per cent Mixed and 0.4 per cent Other. Among those between 18 and 64 years (more likely to have learning difficulties, mental health needs or to experience substance

misuse) 90 per cent were white, 4.1 per cent were Asian/Asian British, 3.8 per cent were Black/Black British and 0.2 per cent were Chinese.

For residents in care homes, a major issue taken up by the British Institute of Human Rights (BIHR) (see Katie Ghose, [www.equalityhumanrights.com/en/newsandcomment/speakerscorner/Pages/Mindthe-gap.aspx#comments](http://www.equalityhumanrights.com/en/newsandcomment/speakerscorner/Pages/Mindthe-gap.aspx#comments)) has been the failure to extend the Human Rights Act (HRA) to the treatment of an increasing number of older and disabled people who have been placed in homes run by the private and voluntary sector. As a result of campaigning by the BIHR and other organisations representing older people, this was taken up in section 145 of the Health and Social Care Act, which was passed by Parliament and received Royal Assent on 21 July 2008. It confirms that private and voluntary sector organisations providing residential care services under contract to local authorities are bound by the HRA.

Thus, as with employment, the relationship between the public and private sectors and the application of discrimination and human rights legislation to the private sphere (household and wider market) are of considerable concern in the pursuit of equality.

What is more common among migrants is their caring responsibility for others, such as children, disabled people and older people. Much of the literature on transnational care focuses on established migrant groups (Evergeti, 2006; Zontini, 2006). In the absence of research on the use of remittances for care (Kofman and Raghuram, 2008), it seems most likely that economic migrants will use their earnings to remit money for care rather than bring over those in need of care (Ryan et al, 2008).

Whether care for other members of the family occurs in the UK also depends to a great extent on immigration status, where the definition of the family for purposes of bringing in family members will be much more expansive for European Union (EU) nationals exercising their treaty mobility rights than for British citizens or settled non-EU migrants. Children of EU citizens may join their parents until 21 years or older if they are still dependent, but for non-EU citizens the age-limit is 18 years. In terms of human rights, the United Nations Convention on the Rights of the Child (ratified by the UK in 1991) is not directly applicable to immigration cases (Seddon 2006: 360). Similarly, an EEA national and their spouse, even if the spouse is a non-EEA national, may bring in dependent parents and grandparents without having to satisfy immigration rules. For non-EEA nationals, even if they are British citizens, by contrast, the rules governing such relatives are highly restrictive. Relatives over 65 must be wholly or mainly dependent on their children and must have no close relatives in their home country to whom they could turn for financial support. Those



under 60 years must show they are living alone in exceptional compassionate circumstances (Seddon, 2006: 399–406).

## **9.2 Elderly migrants**

Older migrants brought in as parents of British citizens and those with settled status under family reunification are not entitled to means-tested benefits or local authority housing for the first five years, unless their sponsors die. The few entering as parents of workers have to wait until the worker obtains indefinite leave to remain. The restrictions on parents often in turn make it very difficult for women in particular to access child care and emotional support, as we shall subsequently discuss. There is also a category of ‘retired persons of independent means’, whereby someone over 60 years with connections to the UK and with an annual disposable income of £25,000 may be admitted (Seddon, 2006: 398). For the better-off this has been an alternative way of bringing in parents but this is now to be abolished as part of the proposed changes in immigration and citizenship (UK Border Agency, 2008d).

## **9.3 Child care**

Child care raises a different set of issues. Over the last decade, local authority-run and supported services have moved away from a means-tested model for payment, with lower costs for the lower paid, and now rely on the childcare element of working tax credit to subsidise childcare costs for working parents in need, charging a flat (high) rate to all. Migrant workers subject to immigration control cannot claim working families tax credit, however low paid they are, and so are in a position of absolute disadvantage compared to UK or EU workers in the same situation. This is more likely to affect women workers than men and they are further disadvantaged because of their relative isolation from the family networks that might support others and also because of a lack of culturally and linguistically appropriate childcare (Kofman and Lukes, 2008; Kofman et al, 2008). While skilled migrants have the right to bring their children into the UK with them, many leave them behind in the initial years in order to gain the maximum earnings. Instead, remittances are sent back to support children and their carers (Kofman and Raghuram, 2008).

Local authorities have raised several issues about child protection (Institute of Community Cohesion, 2007). They are concerned that children of migrant workers may be working longer hours than permitted for their age. Some children may also be migrating to work and are exploited or trafficked. Lack of knowledge or understanding of migrant children’s backgrounds may result in inappropriate or ineffective interventions.

Other authorities have expressed concern about not being able to give support to parents under Section 17 of the Children Act, for which they believe A8 migrants are

not eligible for the first 12 months, rather than pursue the more expensive option of taking children into care. In fact, as with all other exclusions from social services based on immigration status, there is a clear exception where human rights are concerned, and this includes the right to family life, as several cases involving migrants illustrate (see, for example, *R (M) v Islington LBC* [2003] EWHC 1388, which involved an overstayer and her child, to whom Islington were told to offer support). Others are concerned about children being left on their own in multiple occupancy housing (conversation with Equalities and Social Justice, Welsh Local Government Association). Given that recent migrants cannot claim child tax credits to enable them to pay for child care, it is more likely that they will be forced to make unsuitable arrangements for their children. Over time, it is likely that this problem with child care may present a similar financial dilemma to social services departments to that which they already face in respect of support and accommodation for those barred from recourse to public funds.

#### **9.4 Irregular migrants**

For irregular migrants, in particular, contact with social services may be problematic, indeed avoided, even where there are concerns for child welfare. The case of *PB v Haringey* in 2006 (information provided by 2–3 Grays Inn Square) involved an overstayer whose children were looked after by the local authority, which was taking proceedings to remove them from her permanently. Haringey had also refused to support the mother under the community care provisions (specifically s.21 of the National Assistance Act). The court ruled that this refusal was unsound because she was depressed and it was unreasonable for her to return home to Jamaica because the care proceedings involved her Article 8 rights to family life.

#### **9.5 Conclusions**

As with other sectors, more accurate data need to be obtained on the experiences of recent migrants in relation to their social care needs. Migrants also need to be considered in discussions about appropriate and culturally sensitive care provision. Child protection services need to consider effective ways of protecting migrant children that take into account the considerable constraints faced by their parents, and may also need to develop resources such as child care specifically for them. The alternative, of course, is to seek changes in immigration legislation or rules that take account of the needs of women as mothers.

Above all, one of the major issues is the difficulty that migrant women without settled status encounter in accessing affordable child care. They are neither entitled to child tax credits nor do they generally have access to older family members. Instead their parents are usually seen by legislators as a burden, rather than as family members who may provide care and support while their children work. Research in other

countries where it is easier to bring in older family members indicates that extended families may find it easier to cope.

## 10 Education

Knowledge of English has become increasingly important for settlement and citizenship and the possibility of moving into more highly skilled employment. However, the provision of English for Speakers of Other Languages (ESOL) teaching is very uneven and new rules on access to free ESOL classes, though revised, still leave possible discriminatory impacts. For children, a lack of knowledge of English may lie behind the bullying and harassment they face at school. Another issue is the differential educational attainment of migrant children. In this chapter we examine issues concerning migrants and unequal access to English and highlight the wide range of educational qualifications and attainment by adults and children.

### 10.1 English language, ESOL classes and integration

The ability to speak English is a fundamental aspect of wider integration and cohesion. Workers who speak English are less likely to be exploited, are more able to help themselves and each other if they do face problems, and can more easily do a job that matches their skills. McKay et al (2006) argued that knowledge of English is a recognised necessity in relation to health and safety for those jobs that employers view as carrying specific health and safety risks: for example, working with machinery. This research showed two different types of barriers to access to English: first, migrant workers working long hours did not have the energy to attend classes; secondly, some employers were not in favour of migrant workers undertaking courses.

A review of the recent literature on migrants and public services (Arai, 2005) showed that most of the studies on migration and education between the 1990s and 2005 focused on asylum seekers and refugees. However, some issues applied to both asylum seekers/refugees and new migrants. Two prominent and recurring issues were that a lack of English language skills severely hampers educational attainment (and, therefore, training and job prospects) and that ESOL provision is not uniform and varies in quality. Moreover, many of the reasons cited by migrants for their non-use of educational services, which are often similar to those cited by sectors of the indigenous population, include such factors as the costs associated with attending classes, lack of child care facilities and domestic responsibilities taking priority. Poor use of services may also be attributable to the fact that migrants may attach different meanings to education and learning English.

Green et al (2005) found English to be a key learning need in both Norfolk and the Thames Gateway, especially given the growth of customer service occupations for which language is important. Interviewees acknowledged a need for sufficient English to 'get by' in everyday life. However, some migrants have poor language,

literacy and writing skills in their mother tongue, and basic writing skills are also needed. In the Thames Gateway, people from ethnic minority groups additionally faced problems of racism, different cultural expectations (especially for women) and 'bounded horizons' – concerning where they might go and what they might achieve.

The Learning and Skills Council (LSC, 2006) identified distinct groups of migrants with differing needs for ESOL provision: asylum seekers needing help with integration, foreign-born citizens seeking citizenship, and migrant workers seeking English language competency for work-related purposes. They found that nearly 500,000 ESOL learners were enrolled at further education colleges in 2004–5. Of the full-time ESOL learners, 15 per cent were asylum seekers, and presumably the rest migrants. Provision was greatest in London, but this raises questions as to what is available in areas with a more recent history of migration.

Given the widespread concern and discussion about ESOL, the National Institute of Adult Continuing Education (NIACE) set up a Committee of Inquiry on ESOL, which reported in 2006. It was critical of the quality of ESOL provision, and especially the lack of links to employability and information, advice and guidance about employment, a concern echoed by Leitch in his review of skills training (Leitch, 2006) and by refugee and migrant organisations who participated in research in Birmingham in 2006 (Phillimore et al, 2007). They also found an increasing demand for ESOL, especially from the new Eastern European migrants. The LSC study (LSC, 2006a) noted that Polish enrolments had increased 18-fold between 2003 and 2006. A separate LSC study, however, found that British Asians (the study used ethnic categories) were the largest group of ESOL learners. There is, however, general agreement that demand exceeds supply. In Bolton, for example, there is a waiting list of 1,100 people for ESOL at the local college and a one and a half year wait to start classes.

The research strongly suggests that increased provision is needed to meet the demand from A8 migrants in particular, as well as a need to enhance linkages with other education and training provision, ensure distance learning and flexible provision, and arrangements to meet the needs of excluded groups like migrants working in inaccessible locations. Research for the Institute of Community Cohesion (2008), involving more than 100 local authorities, concluded that there is insufficient provision of ESOL to meet increasing demand, that part of the problem is the shortage of ESOL teachers and that more restrictive rules around the Government's funding for ESOL will make the problem worse.

There are, however, other pressures on ESOL. At the end of 2006, the then Department for Education and Skills (DfES) announced that fee remission for hitherto

free ESOL classes was to end for those with an income and for asylum seekers. After a sustained campaign and a critical impact assessment (that focused on race alone), further changes were announced and proposals are now under consultation. These offer local decision-making about ESOL funding within national 'indicative' priorities, and include:

- Legal residents who might reasonably be expected to be in the country for the foreseeable future.
- Excluded women or those who are at risk of being excluded, particularly those who are parents with children under 16 years.
- Parents or carers within families at risk of multiple or complex problems.
- Those who are identified in local areas as raising particular issues for community cohesion.
- Those having no or low levels of literacy in their own language.
- Those who have not had any secondary education.
- Refugees; and asylum seekers who are still in the country beyond six months awaiting a decision on their status or cannot return home. (Department for Innovation, Universities & Skills (DIUS), 2008)

The new proposals raise many equality problems. The emphasis on women (and especially mothers), for example, risks excluding newly arrived men, and potentially discriminating against men who arrive as civil partners or husbands, as well as childfree women. The identification of those who 'raise issues of community cohesion' is likely to lead to conscious or unconscious discrimination based on gender and racial stereotyping. The introduction of so much local discretion may open the door to discrimination. There is also a problem that these proposals do nothing to address the other barriers to learning English identified above. Research among refugees in Islington found, for example, that carers and parents of small children were at particular risk, not so much of not getting entry into ESOL but of not completing it because of the lack of flexible learning arrangements that would enable them to take time out when needed (Kofman and Lukes, 2006).

Of particular note in relation to disability is the complete absence of any ESOL provision for those with sensory impairments (hearing and sight). This is clearly something that may raise legal challenges at some point, especially since these are impairments that do not preclude the English test being demanded for indefinite leave to remain or for citizenship. In addition, concerns have been expressed that ESOL has not considered the specific needs of older people, who do not need to pass the English test to acquire citizenship or settlement, but whose ability to be involved in the community is largely determined by access to language teaching.

Both older and disabled people are likely to lose out if there is increasing emphasis on ESOL provision by employers, since they are less likely to be in employment.

## 10.2 Migrants and adult education

Migrants arrive in the UK with different levels of education. Table 10.1 illustrates this in relation to some of the national groups we have highlighted elsewhere, since these differences relate to a complex mix of migration pathways and filters, opportunities and disadvantage. While over 30 per cent of those with Australian or Chinese nationality have degrees, this drops to less than 10 per cent of those with Somali or Portuguese nationality.

**Table 10.1 Highest qualification, by nationality (per cent), UK, 2006**

	Degree or equiv	Higher education	GCE A level or equiv	GCSE grades A-C or equiv	Other qualific- ation	No qualific- ation	Don't know
UK/GB	18.8	8.6	24.3	23.9	10.3	13.5	0.7
Australia	32.1	5.0	12.7	6.4	39.8	4.0	0.0
Bangladesh	12.0	2.3	1.5	8.9	25.1	46.9	3.2
China	30.1	4.7	6.1	2.5	44.0	11.8	0.8
Poland	9.0	1.8	6.5	2.1	65.5	13.0	2.0
Portugal	7.2	1.2	12.7	5.3	41.4	31.7	0.4
India	24.8	4.7	6.3	3.3	45.1	15.3	0.5
Nigeria	22.9	10.0	6.9	7.3	43.7	8.5	0.8
Somalia	1.2	1.0	4.7	12.4	38.2	42.0	0.5
Ireland	19.2	11.5	15.1	9.5	23.6	20.4	0.7
Total	18.8	8.4	23.3	22.6	12.5	13.7	0.7

Source: LFS, 2006 (annual average of four quarters).

There is extensive evidence, often based on the experiences of refugees, of many foreign qualifications not being recognised in the UK. This can be both a cause of disadvantage and a way in which discrimination takes place.

## 10.3 Migrant children and schools

The arrival of more migrant children into schools was noted as a cause of concern by many local authorities consulted for a report by the Institute of Community Cohesion (2008). This found that:

The impact on schools is significant in many authorities, including those with A8 migrants. Pressures include those children arriving with no English and with an increasing number and diversity of first languages, the numbers arriving 'in year' (after the normal start of the academic year), some complex special needs and

issues of attendance. Some areas have a high transience amongst the school population – this ‘churn’ is often not appreciated as the school population may appear ‘static’ in numerical terms, but the reality of turnover brings significant additional costs compared to those schools with a more stable school population.

The arrival of migrant children by no means, however, necessarily involves a lowering of standards of achievement in schools. Some children of migrants perform significantly above the English average.

The performance of children in schools is noted in the Pupil Level Annual School Census (PLASC) statistics, but detailed information about achievement is difficult to assess on anything other than a local level. PLASC statistics do, however, record much more detailed ‘ethnic groups’, which include many communities made up largely of migrants and their children. Table 10.2 summarises the performance of children at GCSE level by ethnic group. As can be seen, some groups (especially Chinese and Sri Lankan) perform markedly better than average, and some (Bangladeshi, Pakistani, Jamaican, Somali, Turkish and Portuguese) markedly worse. These latter include a mix of ‘traditional’ migrants to the UK, people who have arrived via the asylum system and work migrants. The Portuguese figures, which are especially low, may also reflect a low level of literacy among Portuguese migrants before arrival, although those arriving from Portugal also include a significant component of secondary migration originally from Africa and South America.



**Table 10.2 School performance, by ethnic group and nationality, England, 2003**

<b>Ethnic group</b>	<b>Mean percentage difference from England mean</b>
Chinese	+11.0
Sri Lankan	+8.0
Indian	+7.0
Iranian	+5.0
Irish	+4.5
Filipino	+4.5
French	+3.0
Nigerian	+1.5
White British	+1.0
Ghanaian	-0.8
Italian	-1.0
Cypriot	-5.5
Bangladeshi	-9.3
Pakistani	-11.3
Jamaican	-15.3
Somali	-22.8
Turkish	-23.6
Portuguese	-32.3

*Source:* DfES and Institute of Public Policy Research calculations (IPPR, 2007).

*Note:* Test results including GCSE statistics were used to calculate a mean percentage difference from the mean score in English schools.

Languages spoken in schools are recorded at a local level, and most local authorities report a significant increase in the number of mother tongues in their schools. Table 10.3 below is included as an example: Enfield is an outer London borough where over a third of children in schools have a mother tongue other than English. This does, however, vary enormously within the borough, with six wards where a minority of pupils have English as a mother tongue, and two where it is over 80 per cent.

**Table 10.3 Enfield: languages spoken in schools, percentage by ward, 2006**

Name	English	Turkish	Greek	Somali	Bengali	Gujerati	French	Albanian	Fante	Kurdish	Arabic	Urdu	Yoruba	Others
Bowes	48.4	9.6	6.4	3.6	3.0	3.4	0.9	2.6	0.4	1.4	1.2	2.5	0.7	15.9
Bush Hill Park	74.4	4.5	4.8	1.0	1.0	1.7	1.3	0.6	0.4	0.8	0.2	1.0	0.4	7.9
Chase	78.9	5.7	0.8	1.5	0.7	0.3	0.9	0.6	0.7	0.9	1.1	0.1	0.2	7.6
Cockfosters	62.6	7.9	11	0.8	1.7	1.7	0.4	1.0	1.4	1.0	0.3	1.1	0.0	9.1
Edmonton Green	43.0	14.0	1.0	4.8	5.0	0.6	1.7	2.8	2.2	1.8	1.3	0.7	1.6	19.5
Enfield Highway	61.6	12.3	2.9	1.9	2.1	0.5	0.9	1.2	0.8	0.8	1.0	0.4	1.2	12.4
Enfield Lock	58.6	12.3	1.5	5.9	1.1	0.4	2.2	0.7	1.0	1.1	0.3	0.3	1.3	13.3
Grange	83.4	2.8	5.3	0.0	0.2	0.6	0.5	0.3	0.0	0.3	0.5	0.7	0.1	5.3
Haselbury	44.4	11.7	2.9	3.9	3.7	2.2	2.0	2.8	1.1	0.6	1.3	1.0	1.0	21.4
Highlands	78.0	3.8	4.5	0.8	0.4	1.6	0.4	0.0	0.1	0.3	0.6	0.4	0.1	9
Jubilee	55.7	14.0	3.4	2.8	2.3	0.9	1.6	1.3	0.9	1.1	0.7	0.8	0.9	13.6
Lower Edmonton	46.6	12.2	1.8	6.2	3.4	0.9	1.4	1.6	2.0	1.8	1.0	0.8	1.5	18.8
Out Borough	64.4	5.4	2.0	1.6	1.0	1.0	0.9	0.8	1.7	0.5	0.6	0.6	1.0	18.5
Palmers Green	58.2	9.3	7.7	1.7	1.2	3.1	1.3	0.8	1.5	0.5	0.7	1.2	0.3	12.5
Ponders End	42.5	12.3	2.4	4.4	11.6	0.3	1.8	1.5	1.6	1.4	0.4	0.6	0.9	18.3
Southbury	63.1	10.2	1.7	3.3	1.5	0.9	1.3	0.4	1.1	0.6	1.1	0.5	0.9	13.4
Southgate	65.2	5.5	7.6	1.8	0.7	1.3	0.5	0.5	0.4	0.8	1.0	1.0	0.5	13.2
Southgate Green	58.8	5.7	4.7	3.8	3.1	3.4	1.7	1.4	1.0	0.1	1.3	0.6	0.0	14.4
Town	86.7	2.7	0.8	0.3	0.6	0.9	0.0	0.4	0.1	0.1	0.2	0.0	0.1	7.1
Turkey Street	64.1	12.7	2.4	1.9	1.7	0.4	1.1	1.1	1.1	1.0	0.7	0.6	1.2	10
Upper Edmonton	45.3	15.6	1.7	6.1	3.0	0.9	2.0	1.6	1.8	1.0	1.3	0.4	1.5	17.8
Winchmore Hill	76.3	4.1	5.5	0.9	0.8	1.5	0.9	0.6	0.8	0.2	0.3	0.5	0.0	7.6
<b>MEAN</b>	<b>61.8</b>	<b>8.8</b>	<b>3.8</b>	<b>2.7</b>	<b>2.3</b>	<b>1.3</b>	<b>1.2</b>	<b>1.1</b>	<b>1.0</b>	<b>0.8</b>	<b>0.8</b>	<b>0.7</b>	<b>0.7</b>	<b>13.0</b>

Source: [www.enfield-observatory.org.uk](http://www.enfield-observatory.org.uk)

According to a recent study by the British Council on bullying<sup>30</sup>, first-generation migrant children in the UK are 25 per cent more likely to be bullied at secondary school than non-migrant children. Markova and Black (2007) also reported experiences of bullying that targets children who do not know English when they first start school. A Ukrainian mother, living in Brighton, talked about the problems that her son experienced:

At the very beginning my son could not speak a word of English at school. Kids started bullying him. He was psychologically traumatised adapting at school. The teacher then explained to the class that it was not that he was stupid but he just did not speak the language and it helped. They stopped bullying him. I know also other Russian and East European kids at the schools of Brighton & Hove that had been mercilessly bullied by their classmates. Kids form groups at school according to their common language.

#### **10.4 Conclusions**

Recent emphasis on the acquisition of English as a requirement of citizenship and indefinite leave to remain may exacerbate or create disadvantage, as some groups find that access to learning English as a second or other language is impeded by fees, shortage or simple lack of provision. There is, for example, no provision for people with sensory impairments. Changes to the funding of ESOL now in train may improve the situation for some but will worsen it for others. They do not seem likely to deal with the extreme shortage of places or with the criticisms about the types of provision and methods of delivery that exclude some groups, such as women, especially those with caring responsibilities.

There is wide variation between migrant groups in their levels of educational qualifications on arrival in the UK, and this may exacerbate discrimination and exclusion. Similarly, migrant children, although often reported as presenting problems on arrival in the UK education system, actually have very different rates of achievement in schools. Some nationalities significantly outperform the English average, although some groups do much worse, which is a cause of concern.

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<sup>30</sup> See <http://news.bbc.co.uk/1/hi/education/7270880.stm>

## 11 Law, legal advice, criminal justice and prisons

Migrants, like all other UK residents, are likely to come into contact with the legal and criminal justice systems. Justice may be blind, but there is some evidence that there are significant differences in the way that migrants experience the law, both in terms of access to advocacy and in relation to crime, as victims and as suspects or perpetrators. Apart from prison, there is also a form of detention that is, or should be, unique to migrants: the Immigration Removal Centres (IRCs), which are part of the enforcement processes run by the UK Border Agency (UKBA).

### 11.1 Legal aid and advice

Access to legal advice and services underpins any attempt to enforce rights or deal with major problems. Recent reforms to the civil, family and immigration legal aid system, following the Carter Review (cited in Department for Constitutional Affairs (DCA)/Legal Services Commission (LSC), 2006a), have reduced the amounts of money payable for many cases handled by solicitors specialising in areas of law needed by migrants, such as housing, immigration, social care and benefits. The introduction of tendering and proposals for promoting larger local service providers have also discouraged many legal aid providers. The summary of responses to the review proposals noted a:

Widespread concern that the proposals will drive firms out of legal aid and this will affect access to justice for vulnerable clients.

The summary also noted a specific concern about ethnic minority clients (as being among these ‘vulnerable clients’) and firms, but particularly highlighted the problems for those who need interpreters, who are likely to be migrants. The Equality Impact Assessment stated merely that:

Providers will be required to deliver appropriate services to BME [ethnic minority] clients and communities. Whilst it is possible that some providers with smaller legal aid contracts may leave the legal aid market, the LSC will manage the transition to ensure that adequate coverage is provided in all communities.

Migrants are thus a hidden presence in the discussion about how to run legal aid: their needs are acknowledged as complicating cases and specifically involving expensive and sometimes difficult interpreting, but not named as such. In fact, out of the six cases prepared by the Housing Law Practitioners Association as examples of the sort of work their members do that would become impossible under the new payment rules, three clearly refer to migrants, though none are identified as such.

## 11.2 Criminal justice and police

There is no statistical evidence in relation to migrants and the criminal justice system, although some research has been done. The Association of Chief Police Officers commissioned a paper on migrants and crime from Peter Fahy, Chief Constable of Cheshire, who, while noting (in response to some press leaks of part of the report) that migration had a significant impact on communities, said that:

While this has led to new demands made on the police service, the evidence does not support theories of a large-scale crime wave generated through migration. In fact, crime has been falling across the country over the past year. Many migrants are young professionals looking to earn money and return to their home countries. Cultural differences such as attitudes to offences like drink driving may exist, but can be exaggerated.

Eastern European or accession nationals have been a particular focus of concern in relation to crime. Fahy was keen to emphasise that the problems were those of ensuring good service delivery rather than an increase in crime associated with these new arrivals.

The influx of Eastern Europeans has created pressures on forces in some areas, including local rumour and misunderstandings fuelling tensions, which police have had to be proactive in resolving, and leading to significant increases in spending on interpreters, which can also make investigations more complex. Better forecasting and data-sharing between local agencies to pick up changes in local populations quicker is necessary to help anticipate the issues. Ministers acknowledge some of the challenges arising for the police service and we welcome the opportunity for a proper debate about the issues<sup>31</sup>.

Migration has, however, provided a spur to improve communications and relationships between local authorities and the police. The Improvement and Development Agency for local government (IDeA) has a migration programme to highlight and disseminate good practice, and has held discussions on this. It notes that the police and local government need to communicate more about migration, and that the police see more of the problems. This reflects as much the fact that police are seeing a significant increase in immigrants as the victims of crime. We were, however, told by IDeA that the police do not monitor on nationality generally (nor do local authorities) and so data is difficult or impossible to come by.

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<sup>31</sup> See [www.acpo.police.uk/pressrelease.asp?PR\\_GUID=%7B017B1944-5CB2-43F6-BE22-E9AD91364597%7D](http://www.acpo.police.uk/pressrelease.asp?PR_GUID=%7B017B1944-5CB2-43F6-BE22-E9AD91364597%7D), April 2008

An interesting example of the problems inherent in media coverage of migrants is presented by a recent *Daily Telegraph* report of a 'survey' of 'migrant crime'<sup>32</sup>. They contacted 43 police forces asking for information about the numbers of 'accused suspects from certain nationalities in their area'. Eight responded, and so in addition to the obvious problem that these figures are apparently not usually collected but now seem to have appeared in response to a journalist's enquiry, plus the caution that must be exercised about a category of 'accused suspects' which appears to dispense with the need for a trial or assumption of innocence, we must add the rider that this is by no means a representative sample of police forces, since it includes less than a fifth of them. There is no information provided in the article as to how many of the 'accused suspects' were actually found guilty, or even stood trial. *The Daily Telegraph* used these figures to produce a 'percentage increase' figure for each nationality in each area, comparing totals for the years between 2004 and 2007. The survey covered only the 10 accession countries plus Malta (for reasons not explained).

These were years in which the numbers of migrants from some of these countries increased dramatically. To take Poles as an example, there were 60,680 people born in Poland recorded in the 2001 UK census, and 447,000 noted in the Labour Force Survey in 2007 (Pollard et al, 2008), representing an increase of over 700 per cent across the UK. It would appear that, while the numbers of Poles in the UK increased dramatically, the number of them accused of crimes across these areas increased by a much smaller percentage. The average percentage increase in 'accused suspects' recorded in these eight areas from 2004/5 to 2006/7 was actually 154 per cent. In other words, the 'crime rate' (insofar as it can be measured in terms of numbers of those accused rather than those found guilty) actually went down quite dramatically by 2006. The report, however, was headlined 'Crimes committed by European migrants up by 800 per cent' (a figure not justified by any of the totals recorded for the 11 nationalities) and included the statement that 'the findings cast doubts on a report from the Association of Chief Police Officers (ACPO) which said that the surge in immigrants had not fuelled a rise in crime'. On the contrary, the figures reproduced in the article support entirely the claims made in the ACPO report. In several areas, the actual number of crimes alleged to have been committed by the specified European migrants had gone down, as had the number of crimes attributed to Estonians and Bulgarians across all eight regions.

Migrants are also victims of crime, and there are also crimes of which only migrants can be victims, such as trafficking, some types of exploitation associated with smuggling and the provision of unregulated immigration advice. We found no statistical data on these, and no newspaper reports on any alleged increase or

<sup>32</sup> See [www.telegraph.co.uk/news/uknews/1895758/Migrant-crime-by-police-force.html](http://www.telegraph.co.uk/news/uknews/1895758/Migrant-crime-by-police-force.html)

decrease. Some comments have been made in the press, though, that new migrants may not be aware of what is considered criminal behaviour in the UK.

### **11.3 Migrants, prisons and Immigration Removal Centres**

Foreign national prisoners, of whom there were 11,211 in September 2007, make up 14 per cent of the overall prison population and one in five women in prison is a foreign national (963). There has been a 152 per cent increase in foreign national prisoners in the last 10 years, compared to a 55 per cent increase in British nationals. Prisoners come from 169 countries, but 10 nationalities (Jamaican, Nigerian, Irish, Vietnamese, Pakistani, Chinese, Somali, Polish, Indian and Iraqi) account for almost half of them. Two prisons, Canterbury and Bullwood Hall, are now reserved for foreign nationals.

One in four foreign national men and 80 per cent of women are being held for drugs offences. In many cases these were drug couriers or 'mules'. Sixty per cent of foreign nationals are serving sentences of four years or more. According to the Prison Reform Trust (PRT), in February 2007, 1,300 foreign nationals were being held in prisons or IRCs after their sentence had ended: this is a key inequality between migrant criminals and others. For migrants, the usual expectation that, having been convicted, they will serve the sentence fixed by the courts does not exist: they will be held until deportation and this may take several months.

Conditions for foreign national prisoners in jail also cause concern. A recent Prison Service survey found that nearly 90 per cent of prisons holding foreign national prisoners are not making regular use of the translation service available, and as a result prisoners may be unable to use services or access basic provision. PRT (2004) also reported that they face isolation, special difficulties trying to maintain family contact, consequent mental health problems, and inadequate preparation for release and resettlement in comparison with other prisoners.

A survey carried out by the HM Inspectorate of Prisons (2006) found that racism and a lack of respect were common. Nearly 80 per cent of prisoners' comments were about disrespectful treatment by staff, often as a result of intolerance of language or cultural difference. There were also complaints about abuse and unacceptable behaviour from other prisoners that went unchecked by staff. Some of this harassment appears to be racially based, some is about religion, and some is directed specifically at migrants. For instance:

'I have been called a dirty foreigner by inmates, and I have observed racist comments to black prisoners. You get treated better as a white foreign national than a black person.'

‘Some officers have commented on Muslims – I have put in a RIC [racist incident complaint]. They were linking all Muslims with bombings.’

‘Racism from officers, shout “fucking foreigner”.’

‘Staff won’t allow me to share [a] cell with my friend. They ignore me because I can’t speak English; sometimes I feel I am invisible.’

‘Staff do not understand my culture, so ignore me.’

About a quarter of the comments made about religion were related to the prison not recognising or catering for specific religions and about a fifth concerned discriminatory comments made towards Muslims.

‘If you are not [Christian] or a Muslim, your religion is not understood.’

‘Some joke that Muslims are terrorists. I was asked why suicide bombings are right; I don’t think it is right. This happened in Education – so I don’t go there any more.’

‘There is a limited selection of goods; there was nothing for Ramadan; no Islamic magazines or tapes.’

It is important to note that migrant prisoners (and other migrant criminals) are subject to penalties and sanctions which do not apply to non-migrants. In addition to the provisions in the Borders Act that make deportation mandatory (with exceptions for human rights appeals and crimes committed by minors) for any crimes for which imprisonment is a sentence, there are also proposals in Paths to Citizenship to make more minor criminal offences delay the process of obtaining citizenship or permanent residence.

In addition, migrants who have committed no criminal offence but have acted in breach of immigration laws or rules may be held in IRCs, which are operated under a separate set of rules, and most people in them are held under Immigration Act powers. Unlike prisons, IRCs have no developed welfare or probation structure, no preparation for release (according to old Home Office figures, about 30 per cent of all detainees are released into the community inside the UK) and limited arrangements for family and other contact. There is no structure of parole or time off for good behaviour, limited or no access to any paid work, restrictions on education provision and no limitations on the period for which they are held except via a limited bail system. Until recently there were also very patchy arrangements for legal advice and representation, although this is now being addressed by the Legal Services Commission.

About 2,000 people are held in immigration removal centres at any one time, of whom about 70 per cent are current or former asylum seekers and the rest other migrants. Over a year, Amnesty International estimates that about 30,000 people or



more are held in immigration detention. Three of the 10 centres hold children along with their parents. Human rights concerns are often raised in relation to IRCs and their regimes, but the effect on community cohesion is also notable. The centres are a hidden presence in the UK, the establishment of a new centre becomes a focus for local discontents about migration, and there are very few resources put into building relationships with the local community, in spite of the significant contributions made by voluntary visitors' groups and others<sup>33</sup>. There is no research on what happens to ex-detainees released into the community but, given the extreme sense of alienation, isolation and sometimes depression expressed by many, there is a need to assess what impact this has on community cohesion and the strengthening of extremism. This may well be exacerbated by reported cases where UK nationals have been caught up in a panic around foreign national prisoners and held illegally in IRCs, in one case for some weeks<sup>34</sup>. It is possible that these illegal detentions are the result of discrimination on the grounds of race or religion.

#### **11.4 Conclusions**

The DCA, LSC and Ministry of Justice should collect data and report on the effects of legal aid reforms on migrants and those among them within the equality target groups, given that the potential risk to them has been highlighted. The role of migrants as victims of crime, and particularly of crimes solely committed against migrants, is of particular concern and merits further research. The treatment of foreign national prisoners and immigration detainees raises many human rights concerns but also some related to discrimination and community cohesion. There is a need to monitor this, especially as the UKBA intends to open more IRCs.

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<sup>33</sup> One of the authors chairs Music In Detention, which operates an active community exchange programme involving local schools, youth clubs and others around IRCs, aims to involve detainees in fostering local cohesion, and is initiating a programme to work with ex-detainees.

<sup>34</sup> Anonymous informant working in an IRC.

## 12 Income, benefits and financial exclusion

One of the public concerns around migration is the belief that immigrants are competing for the jobs of UK citizens (lowering the average income for some occupational groups) and, at the same time, are ‘benefit scroungers’ and a drain on the public purse. Research evidence and the available statistics, however, suggest otherwise. This chapter shows wide variations of income and benefit take-up between migrant groups, only some of which can be explained by their immigration status. Recent migrants, too, face problems of financial exclusion.

### 12.1 Income

Table 12.1 shows Labour Force Survey (LFS) estimates of the average gross hourly pay of country-of-birth groups. With rates above £15, USA, Canada and Australia-born workers are significantly above the £11 rate for the UK-born population, while the nationalities at the bottom of the pay rankings are those born in the Philippines, Turkey, Portugal, Somalia and Poland.

**Table 12.1 Average gross hourly pay from main job of economically active working-age population, by country of birth, Britain, 2005/6**

Rank	Country of birth	Average hourly pay (£)
1	USA	17.10
2	Canada	15.60
3	Australia	15.20
4	South Africa	13.50
5	Uganda	13.40
6	Republic of Ireland	13.10
7	Kenya	12.50
8	France	12.30
9	Italy	11.90
10	Cyprus	11.70
11	Jamaica	11.60
12	India	11.50
<b>13=</b>	<b>UK</b>	<b>11.10</b>
13=	Zimbabwe	11.10
15	Nigeria	10.80
16	Sri Lanka	10.50
17	Pakistan	10.20
18	China	10.10
19=	Ghana	9.40
19=	Iran	9.40
21	Bangladesh	9.30
22	Philippines	8.30
23	Turkey	8.20
24	Portugal	8.10

25	Somalia	7.90
26	Poland	7.30

*Source:* LFS and Institute of Public Policy Research (IPPR) calculations.

*Note:* Data refers to respondents' main jobs only, and is only collected from respondents who are employed as opposed to self-employed.

As highlighted by IPPR (2007), it may be tempting to conclude that the groups with lower average pay 'undercut' UK-born and indeed other immigrant workers (see Chapter 6). However, this conclusion relies on the assumption that all immigrants perform similar jobs, while in fact they tend to be concentrated at either end of the skills spectrum. The job for which a UK-born worker is earning an average of £11.10 an hour is unlikely to be similar to the job for which a Polish-born worker earns an average of £7.30. Similarly, Poles and Americans, who occupy opposite ends of the hourly pay scale, are unlikely to be 'competing' for jobs (IPPR, 2007, p 21). It is also important to remember that the LFS statistics refer only to respondents who are employed rather than self-employed: the latter are likely to earn higher average wages than employees. Therefore, groups such as the Turkish and Pakistani, which have high proportions of self-employment, would very possibly display higher average pay rates if data on self-employed income were available.

An in-depth analysis of Annual Population Survey statistics on workers in London (LSE, 2007) showed that the earnings of migrants from 'poor countries' are substantially lower than those of the average Londoner, in spite of qualification levels which are often above the average: 'This is especially clear in the first three years, when they appear to receive about 40 per cent below the London average. ... For the newly arrived A8 migrants, the difference appears even greater, with average earning of just £6.00 per hour recorded' (LSE, 2007, p 51).

## 12.2 Benefits

LFS calculations also show that the majority of foreign-born groups have lower Income Support take-up rates than the UK-born. Income Support is a means-tested benefit that can be claimed by working-age people who are not working full-time and are on low incomes, or who are lone parents, sick or disabled, or caring for another person. Table 12.2 shows that, out of all the groups, those born in the USA, Philippines, Poland, France and Australia are the least likely to be claiming Income Support, while Somalis are the most likely to be claiming it, due to the high incidence of poverty among them.

**Table 12.2 Proportion of population claiming Income Support, by country of birth, Britain, 2005/6**

Rank	Country of birth	Income support claimants (%)
1	USA	*
2=	Philippines	1
2=	Poland	1
2=	France	1
2=	Australia	1
6=	Canada	2
6=	South Africa	2
6=	China	2
9=	Zimbabwe	3
9=	Ghana	3
9=	Italy	3
9=	Sri Lanka	3
9=	Kenya	3
9=	India	3
<b>15</b>	<b>UK</b>	<b>4</b>
16=	Republic of Ireland	5
16=	Nigeria	5
18	Jamaica	6
19=	Uganda	7
19=	Portugal	7
21	Cyprus	9
22	Iran	10
23=	Pakistan	11
23=	Bangladesh	11
25	Turkey	21
26	Somalia	39

Source: LFS and IPPR calculations, 2007.

Note: \* = Rounds to zero

Of the groups with high rates of Income Support claims, many are likely to be recognised refugees or naturalised British citizens. Moreover, as highlighted in the IPPR report, 'it is interesting to compare these figures with those for the (largely UK-born) population of some of the UK's most deprived areas. For example, in the 15 per cent most deprived areas of Scotland, more than 40 per cent of children are dependent on a parent or guardian who is in receipt of Income Support' (Sriskandarajah et al, 2007, p 27).

Further data on unemployment benefits – see Table 12.3 – reveals that the proportion of foreign-born people who claim unemployment benefits is also very low, even among those groups with a relatively high level of unemployment.

**Table 12.3 Proportion of working-age population claiming unemployment-related benefits, by country of birth, Britain, 2005/6**

Rank	Country of birth	Unemployment-related benefits (%)
1=	Poland	*
1=	USA	*
1=	Australia	*
1=	South Africa	*
5=	Nigeria	1
5=	India	1
5=	Sri Lanka	1
5=	Kenya	1
5=	Canada	1
5=	France	1
5=	Republic of Ireland	1
5=	Philippines	1
5=	Jamaica	1
<b>5=</b>	<b>UK</b>	<b>1</b>
5=	Zimbabwe	1
16=	Cyprus	2
16=	China	2
16=	Pakistan	2
16=	Italy	2
16=	Portugal	2
21=	Ghana	3
21=	Uganda	3
23	Turkey	4
24=	Bangladesh	5
24=	Somalia	5
24=	Iran	5

Source: LFS and IPPR calculations, 2007.

Note: \* = Rounds to zero

For example, while four per cent of the Polish and South African-born population are unemployed, the proportion of those populations claiming unemployment benefits rounds to zero. This is likely to be linked to ineligibility for benefits, while some of the groups with higher proportions claiming unemployment benefits are likely to be naturalised British citizens (Sriskandarajah et al, 2007). The data on disability benefits and child benefits show similar results. Entitlement to child benefit, in particular, is generally restricted to those people who are not subject to immigration controls or with longer term leave. Therefore, many non-European Economic Area (EEA) nationals do not generally qualify (unless they are from a country with which the UK has a reciprocal agreement).

The tax reform recently proposed by the Government will introduce a higher tax rate for those who used to pay at the lowest, introductory, 10 per cent rate. However, this will be accompanied by an increase in tax credit and child benefits. This will mean an overall benefit for many working families, but will have a negative effect on those who have incomes between £5,435 and £18,500 per year and do not receive either working tax or child credit (BBC, 2008), that is, childless adults and those who have no child benefit eligibility, such as most recent migrants. The effects of the 10 per cent tax rate reform on migrants have received almost no attention in the media debate.

For EEA nationals, the emphasis on work or study as the passport to benefits does lead to some anomalies in relation to those who cannot continue working due to their illness or disability. There is provision for some but it depends on the cause and timing of illness or disability. A8 workers, for example, cannot use these provisions for the first year of working in the UK. Women from EEA countries cannot use them to cover stopping work for pregnancy and childbirth unless it is described as a 'temporary inability to work due to illness or accident'. In a benefits case (CIS/408/2006) in October 2007, the Commissioner found that a worker who had to stop work to care for her temporarily severely disabled husband was covered by the worker regulations because an interference with her rights would be disproportionate in the circumstances.

The exclusion from benefits of people barred from recourse to public funds certainly has a disproportionate effect on some equality groups: for example, for women applying for indefinite leave to remain on the basis of domestic violence, but subject to a bar on access to benefits and housing while they wait (see Chapter 13). Others similarly affected are non-EEA migrant workers on permits or similar who become unable to work as a result of disability.

### **12.3 Financial exclusion**

Migrants also face financial exclusion, defined as the 'failure of the formal banking system to offer a full range of depository and credit services, at competitive prices, to all households and/or businesses' (Dymski, 2005: 440), and this has emerged as a significant concern for public policy in the UK over the last decade. As highlighted by Helen Aynsley, from Now Let's Talk Money at Toynbee Hall (a financial inclusion project based in the East End of London), this is a relatively young and little-known sector. Some of the main groups typically facing financial exclusion are, together with migrants in general, women, especially single women and lone parents. The financial exclusion of migrants is due to a dearth of appropriate financial services and products that can meet their particular monetary needs (Datta, 2007). Not only has the financial industry focused its attention on developing ever more sophisticated

products aimed at an elite minority, it has also withdrawn products which are more suited to those on low incomes (Kempson, 2000).

Migrants encounter a number of problems accessing money-transfer services or opening a bank account, particularly in relation to ID issues and communicating with the bank – both in terms of language and a lack of knowledge of the UK banking system. Bank accounts may be needed for wages, tax credits and benefits, and for sending remittances home safely and relatively cheaply. However, opening a bank account without a permanent address, regular income or credit history is difficult. Although most regular migrants have a passport for personal identification, many do not have proof of permanent address (for example, they may rent rooms in multiple occupancy houses where the rental cost includes utilities, so they will not all have their names on a tenancy agreement or utility bill) (Audit Commission, 2008).

These problems are faced even by those migrants who are regular and live here in 'normal' conditions. Vasta (2006, p 4), for example, presents the case of an immigrant woman who is 'dependant' on her husband: 'There are a lot of problems like: why is your husband's surname different? On my passport I still have my surname not that of my husband. This is because the passport was still valid when we married, and there was no reason to change it. So they asked me to bring the marriage certificate. I brought it. This was still not enough: they asked me to come with my husband.'

This situation is particularly problematic for migrant workers, not least where employers pay them direct into their bank account. The NI Code of Practice recommends that employers give support to migrant workers in setting up bank accounts and obtaining National Insurance numbers. A number of employers do give such assistance, sometimes through a prior arrangement with a particular bank (Cooke and Spencer, 2006), but service provision in this respect is still limited. Some local banks accept supportive letters from employers but many others have restrictions on the services they can offer to foreign nationals. The Audit Commission (2008) suggests that local authorities could promote rent deposit schemes to groups of new migrant workers and strategies to facilitate the access of migrants to banking services.

The difficulties in accessing banking services can encourage both irregular and regular immigrants to circumvent complex and harsh regulations using flexible, informal or irregular strategies, for example 'borrowing' or 'renting' bank accounts (Vasta, 2008). This sometimes leads to cases of exploitation among compatriots, with migrants placing their money in so-called friends' bank accounts, paying a monthly rent and sometimes even an amount for each withdrawal.

Recently, some private service providers have launched pre-paid credit cards for people who are denied ordinary bank accounts (the only requirement is to show a valid passport). These cards, which can also be used to send money abroad, have been marketed at major migrant arrival points – such as Victoria Bus Station in London (Thornhill, 2007). Some high street banks have also started to accommodate the large influx of migrant workers from accession countries, making it easier for them to open accounts. HSBC was one of the first banks to let people open an account with just a passport: from June 2006 to January 2007, 20,000 such accounts were opened. Although aimed at incomers from all countries, a quarter of them have been taken up by Polish migrants (Hamilton, 2007). Other banks, such as Lloyds TSB and Barclays, have made similar steps and are also recruiting Polish-speaking personal bankers and staff.

Access to finance by foreign-born entrepreneurs and businessmen has received relatively little study. As usual, most of the research is still based on ethnic classification rather than nationality. Several studies suggested that members of ethnic communities face additional barriers compared with other entrepreneurs, particularly at start-up. A large-scale survey by Jones et al (1994) showed a higher propensity of ethnic minority businessmen to report problems in accessing bank finance, either because their application had been refused or because conditions were imposed that were considered by the applicant as unjustifiably strict. However, analysis conducted by Smallbone et al (2003) showed more variation between ethnic minority-owned firms as a whole and white-owned firms. In particular, Black African- and Black Caribbean-owned businesses appeared the most disadvantaged, being less successful in accessing bank loans and having a higher propensity to turn to non-bank sources of start-up finance.

## **12.4 Conclusions**

Differences between migrant communities and different types of migrant are greater than those between migrant and ‘host’ communities in relation to income, benefit take-up and related areas. Low-paid migrants, however, have been significantly adversely affected by the moves away from low tax rates to tax credit benefits, because many may not be entitled to them. Similarly, some groups are disproportionately affected by rules on recourse to public funds and benefits eligibility which exclude non-EEA migrants.

There is evidence of financial exclusion faced by some large migrant communities and this may compound other types of disadvantage, especially in the case of irregular migrants. Since financial exclusion will be included in the General Household Survey for the first time in 2009, it is important to ensure that questions



that can identify migrants are included, to provide a baseline against which future levels of in- or exclusion can be measured.

## 13 Migrant experiences of harassment and violence

Experiences of harassment and violence have been alluded to in other chapters. Here, we look at the evidence in more detail, as well as the attitudes towards migrants that may underpin them. We also examine why the experience of domestic violence is different for migrants.

### 13.1 Harassment and racial violence

The Macpherson inquiry, which investigated how the death of Stephen Lawrence was dealt with, defined racial harassment as ‘any incident which is perceived to be racist by the victim or any other person’. It can assume various forms, including name-calling, verbal abuse, unprovoked assaults and racist graffiti.

There is no specific research on racial harassment against migrants. The British Crime Survey reports on adult victims of crime and adult fears of violent crime only by ethnicity. However, views and evidence about incidents perceived to be racist can be found in other studies on migration. Research on local experiences of migration, in particular, reports many cases of racial harassment. Zaza and Tirzite (2006) found that in south Lincolnshire 37 per cent of respondents to a survey reported experiences of discrimination and harassment; the harassment coming from British people in shops, bars and cafés, or in the street, along with instances of refusal of services to migrants. Another study found that people working in Chinese catering establishments experienced racial abuse: 56 per cent of them reported it and 31 per cent told of physical attacks (McKay and Winkelmann-Gleed, 2005). Sometimes Chinese victims were arrested instead of the perpetrators, and some described racism from the police when they made reports<sup>35</sup>.

Ward’s (2008) study of migrants revealed accounts of attacks in the street, and also found that reports to the police of racial harassment and attacks had been met with attitudes of indifference, with victims’ concerns often trivialised. Migrants who had experienced racist abuse, harassment or damage to property felt that the police ignored them or did not take their complaints seriously. McKay and Winkelmann-Gleed (2005) described harassment in the workplace (name-calling, harassment by supervisors and co-workers) as being frequent. There were also instances of employers refusing to pay wages (see below).

There are differences, however, in the way asylum seekers and refugees on the one hand and economic migrants on the other are harassed. Refugee and asylum seeker respondents are more likely to report first-hand experiences of racial

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<sup>35</sup> See, for more on this, the accounts of the campaigning group Min Quan: [www.monitoring-group.co.uk/TMG%20services/minquan/min\\_quan\\_history.html](http://www.monitoring-group.co.uk/TMG%20services/minquan/min_quan_history.html)

harassment or racial violence or to know a friend or family member who has had such experiences: the majority of cases are said to involve young people as perpetrators, with the victims being predominantly Black African (Ward, 2008). Any differences, however, may reflect more than just numbers: asylum seekers are more likely to come from visible ethnic minorities, they may have more access to sources of advice or advocacy because of the asylum support process, and so be able to describe what has happened to them in terms like harassment, and they have often been accommodated in areas with a history of racial hostility.

What is certain is that attacks also take place against white migrants. We sampled local press reports collated by the Institute for Race Relations<sup>36</sup> in their weekly bulletins and in April 2008 found attacks in England and Scotland:

- On Sunday 5 April two Polish men were injured when they were beaten up and abused by a gang wielding cricket bats in Barrow. Police said the gang of up to 10 men shouted abuse at their victims about their nationality before spitting at them and punching them.
- On Tuesday 15 April three white men beat up a 28-year-old Pole in Edinburgh.
- On Sunday 20 April a gang of six, including women, attacked a Polish man in a street in Aberdeen and knocked him to the ground. 'The thugs, wearing workers' clothes and boots, punched and kicked the man in Rose Street after accusing him of taking work from local people' (*Daily Record*, 22 April).

In a study of about 240 A8 respondents in Glasgow (Blake Stevenson, 2007), 15 had been physically attacked and 18 had received verbal threats. Many of those who had experienced hostility felt it was due to their country of origin or nationality. Strathclyde police, however, reported that A8 nationals tend not to report incidents of hostility, possibly because they distrust the police or have not registered under the Worker Registration Scheme.

Migrants themselves, however, may also be perpetrators. Clashes and difficulties between different groups of migrants have been noted in Chapter 5. Informants have noted that some migrants come from relatively homogeneous countries and find British diversity difficult to deal with, or are unaware that racism, homophobia or even domestic violence are unacceptable in the UK and may be punishable by law.

### **13.2 Public attitudes to migrants: polls and the media**

Social attitudes towards migrants have been mentioned in Chapter 5. The negative attitudes expressed by significant minorities of respondents to surveys often mirror those of politicians or media commentators.

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<sup>36</sup> See [www.irr.org.uk](http://www.irr.org.uk)

When asked, migrants and others experiencing hostility often blame the media for it. Sometimes the reports have not even been about migrants: McKay and Winkelmann-Gleed (2005) found that the general public rarely differentiated between refugees, asylum seekers and migrant workers: media attacks on refugees and asylum seekers often created general feelings of hostility, if not outright racist abuse, towards migrant workers, too.

Press reportage is shaped by and shapes public attitudes and is by no means uniform. An example of a flawed survey and very slanted reportage of its results by *The Daily Telegraph* is cited in Chapter 11. The *Daily Mail*, however, in 2007, reported straightforwardly on a survey commissioned by Strangers into Citizens, a community-based campaign to regularise undocumented migrants:

**Working migrants should stay – poll** Two thirds of Britons believe illegal immigrants who have been in the UK for more than four years and who work and pay taxes should be allowed to stay, according to a poll.<sup>37</sup>

On the other hand, the BBC Poll Watch for November 2007<sup>38</sup> reported under an ambiguously positive headline:

**Immigrants work harder** The month began with a MORI/*Sun* poll (sampled 31 October–1 November) on immigration. This suggested that 70 per cent were dissatisfied with the government's handling of immigration and asylum; and 64 per cent supported tougher immigration laws (67 per cent took this view in a January 2003 poll). Also, 68 per cent thought there were too many immigrants in Britain. However, 45 per cent thought immigrants work harder than people born in Britain, compared with eight per cent who thought they did not. ORB/BBC Newsnight (sampled 2–4 November) found 44 per cent thought immigrants to the UK did more to help the country, as opposed to 41 per cent who thought they did more to harm it.

By April 2008, however, they were reporting on a BBC-commissioned MORI poll:

Of the 1,000 people asked, 60 per cent said the UK had too many immigrants and half wanted foreigners encouraged to leave. But the proportion of people describing themselves as 'racially prejudiced' was down to 20 per cent, compared with 24 per cent in 2005.

<sup>37</sup> See [www.mailonsunday.co.uk/news/article-450530/Working-migrants-stay--poll.html](http://www.mailonsunday.co.uk/news/article-450530/Working-migrants-stay--poll.html)

<sup>38</sup> Friday, 7 December 2007, [http://news.bbc.co.uk/1/hi/uk\\_politics/7132364.stm](http://news.bbc.co.uk/1/hi/uk_politics/7132364.stm)

Asked if they thought immigration meant their local area didn't feel like Britain any more, a quarter of the sample agreed – double the amount who felt this three years ago. Six out of 10 said immigration had made parts of Britain feel like a foreign country.

Views about migrants as expressed through polls are thus very mixed: it often depends on who is asking the questions, when they are asked, and, especially, on who is reporting them and how.

### **13.3 Domestic violence and migrants**

Chapter 9 reviewed the problems faced by victims of domestic violence in need of support, who are, like others, barred from recourse to public funds.

Domestic violence is usually a gendered issue, and migrants face particular problems in escaping it. This is thus an area where there is a particular focus on migrant women, although the legislation and provision are generally not gender specific. Migrants facing domestic violence need to deal with several interlinked issues that are not a problem for non-migrants in the same situation.

Firstly, the immigration status of many victims of domestic violence may be linked to that of the perpetrator or their relationship with him. Non-European Economic Area (EEA) nationals may have arrived as the spouse of a UK national or settled person, and not yet have indefinite leave to remain (ILR), or as the spouse of a work permit holder or highly skilled migrant and only obtain indefinite leave to remain when his/her spouse receives it after five years. Others may arrive as domestic workers, and then face violence from their employer or someone else in the household. Husbands and wives of those seeking asylum are allowed to stay as dependants while their asylum applications are considered, spouses of students will have leave to remain in line with their husbands, wives, partners or cohabitants. EEA nationals' rights to reside extend to their family members, including non-EEA nationals. In deciding what to do when faced with violence, migrants must weigh up the effect on their immigration status, along with considerations about their safety and lives and those of their children.

There are specific provisions in immigration and European Union (EU) rules for those escaping violence. However, these offer help only to people with some types of status and are quite limited. Those on spousal visas can apply for indefinite leave to remain under the domestic violence rule, but strict conditions apply to the circumstances and the evidence required, and such applications take several months to process (Mouj, 2008, and Amnesty, 2008). The Home Office receives about a thousand applications a year under this rule, but only 35–50 per cent are successful

(Fellas and Wilkins, 2008). Other non-EU migrants may apply for exceptional consideration outside the rules but this is rarely granted. Domestic workers can apply to amend their permits to work for another employer.

The family members of EEA nationals who are workers, students or self-sufficient continue to have the same rights even if they are no longer living together, as long as the marriage or civil partnership continues. Even on divorce, their rights may continue and there is specific provision in cases of domestic violence to waive the minimum time a couple have to have been married in order for a divorced spouse to retain rights. There are, however, some groups that face specific problems. If a working spouse leaves the UK, the rights usually leave with him/her. The partners of accession state workers face particular difficulties if they are unable to work or to obtain authorisation to do so within the first year.

Because of these complexities, migrants fleeing from domestic violence thus often need appropriate and timely legal advice in order to make applications under the domestic violence rule. As noted in Chapter 11, they may not be able to find this. For non-EEA migrants the problem is compounded because they are subject to a bar on recourse to public funds and so not eligible for benefits or housing. If spouses obtain indefinite leave to remain they then become eligible but, as noted above, this may take several months. In March 2008, in evidence to the Home Affairs Committee, a Home Office Minister stated:

Although final details are to be worked out, in the very near future we will put together a system, in consultation with our colleagues in (Department of) Communities and Local Government (DCLG) and, if not, we will pursue it ourselves, to ensure that where people do receive a positive determination with respect to their ILR status they will actually be able to apply for and receive housing and living costs for that period up to the determination of their ILR when, of course, if they are given that, they will be able to apply for other benefits. That will be on the basis that that money will be paid retrospectively, so it will be when their ILR is determined.

However, to date no further announcements have been made. While the announcement is welcome, it will still leave women in limbo because the uncertainty about the outcome of their application for leave to remain (the success of which will determine any refund of costs) will continue to make local authorities and others reluctant to take on cases like these.

The result of the inability to access housing and benefits is that women fleeing domestic violence with no recourse often cannot get into refuges:

A survey of 11 London refuge providers found that in the period 2006/7, 223 women with no recourse to public funds requested refuge space, however only 19 (8.5 per cent) women were accepted for support. This is just three per cent of the total of 585 women who were provided with refuge space by these providers in 2006/7. Of the 19 women accommodated, 16 had children (Fellas and Wilkins, 2008).

Refuges use charitable monies and specific grants to provide support for women in this situation but their ability to do so is limited. Across England, the organisation Refuge spent about £200,000 in 2007 in supporting a total of 22 women in their accommodation. Amnesty and Southall Black Sisters (2008) reported Welsh Women's Aid's finding that two per cent of women in their refuges in 2007 had no recourse to public funds.

Some women may be able to access social services support but, as noted in Chapter 9, the rules on this are complex and difficult to negotiate, so many women are turned away. It may also become increasingly difficult for them to get places in refuges even if they obtain funding. Mouj (2008) noted that changes to funding regimes and the increasing pressure on smaller services to merge with larger ones was having a devastating effect on many projects that had specialised in work with black and ethnic minority women. As they are absorbed into larger organisations, often housing associations, they often withdrew the provision they had made for women with no recourse to public funds. Mouj surveyed refuges offering specialist services to black, Asian, ethnic minority and refugee women in 2007 and found that all those that refused to take women with no recourse to public funds were run by or in partnership with housing associations.

For some of the migrants experiencing violence, there is not even the chance of being turned away from a refuge. Kalayaan, a non-governmental organisation working with domestic workers who have been victims of abuse and violence, received enquiries from 387 domestic workers suffering abuse at the hands of their employers and their families in the financial period between 2005 and 2006 (Amnesty and SBS, 2008).

The effect of these complex rules, a lack of appropriate provision and denial of benefits is to put victims into situations of extreme risk, and in some cases to offer them no protection whatsoever. Campaigners argue, with some force, that this places the UK in breach of its obligations under a range of international conventions and agreements which it has signed, including the European Convention on Human Rights. Retrospective funding for successful applicants under one quite restrictive part of the immigration rules does not begin to touch the real needs.

### **13.4 Conclusions**

There is a mounting body of evidence of racial harassment against new migrants and Eastern Europeans in particular. Migrants also report overt acts of discrimination in the form of exclusion from premises or refusal of services as well as more indirect discrimination such as the denial of banking services (covered in some detail in the previous section). There is a need to identify and monitor victims and perpetrators which is not currently fulfilled by the British Crime Survey. There is also a need to ensure that new migrants know about the law on discrimination and harassment, understand how to recognise it and learn how to enforce it. A useful start would be to include such information in all welcome packs, such as those now being proposed by DCLG.

The Government has acknowledged the need to make specific provision for victims of domestic violence and to ensure that migrant women are not excluded from this. It has so far, however, failed to make effective provision. If it is unwilling to simply lift the bar on recourse to public funds while applications to stay are made, then alternative provision that does not leave local authorities and charities out of pocket should be made. A model for this is the funding offered to local authorities for looking after unaccompanied asylum-seeking children, which does not depend on the outcome of their cases but simply on the need to provide properly for vulnerable people while decisions are made.



## 14 Conclusion

Levels of immigration have been high, especially with recent arrivals from the new European Union (EU) accession countries, but slowed down in 2008. There is, however, a clear distinction between EU and non-EU migrants in terms of their rights to migrate and reside and the benefits of citizenship. EU migrants (including those from accession countries after one year of working in the UK) enjoy a broad range of rights to work, family unity, housing, benefits and settlement. The conflicts and debates on the advantages and pressures resulting from immigration tend to blur the differences concerning the rights of different categories and thus the ability and effectiveness of managed migration policies in controlling immigration and shaping the pathways to citizenship. In terms of overall numbers and immigration policy, the demand to cap numbers in response to perceptions that migrants may be competing with lower-paid or lower-skilled workers and driving down wages is an example of the confusion of categories. EU migrants fill many of these low-skilled jobs but would not be subject to any quota or cap which would primarily apply to skilled workers from outside the EU. Family migration continues to provide a larger proportion of non-EU migration than migration for work, although these are both outnumbered by students. Thus heterogeneity of patterns and statuses makes policymaking based on averages or an assumed homogeneity meaningless and dangerous.

Policymaking at national, and especially local, levels is also rendered more difficult by the inadequacy of statistical data in capturing not only the number of migrants entering but especially those remaining in the country and in a specific locality. Efforts are currently being made to improve data collection and analysis through national surveys such as the Labour Force Survey (LFS) and by local authorities, but the continuing emphasis on monitoring by ethnic derived categories for many services fails to convey diversity and real inequalities experienced by migrants. Measuring the propensity to settle, which differs by immigration status, nationality, gender and age is also a significant need in order to achieve a better understanding of future demand and planning for services in specific areas and the implications this might have for fostering good community relations. Migrants from accession countries have dispersed very widely into rural areas and small towns, unlike other migrants who have tended to concentrate in larger urban areas. Working out how people live together locally and what services need to be provided for them must take account of different kinds of migrants: some are transient, some temporary and some long-term, but all need (often different) services and to be engaged in different ways that are sensitive to their situations and aspirations.

Data is also highly uneven in relation to different sectors and use of services. Availability is much better about employment, where the LFS is able to provide

details such as wages and qualifications and, through inference, the degree of deskilling. However, areas of social policy, especially social care and health, are poorly served. There is no national source of information on who has what type of housing, in relation to migrants and their communities, in spite of an often vicious and ill-informed national debate. Figures obtained from the LFS give useful indicators but are by no means complete. Available figures and research do point to likely discrimination in both the social and private sectors, and anecdotal evidence refers to similar problems among housing associations. Many migrant communities are certainly living in very poor and overcrowded conditions. Knowledge in social care services has been described as a 'data desert', and information about financial inclusion and exclusion is in its infancy across the board, not just in relation to migrants.

The lack of data may obscure the effect of economic and social policy on different categories of migrants. For example, the abolition of the 10 per cent tax rate cannot, for recent non-EU work and family migrants, be compensated for by higher tax credits (because immigration status determines eligibility for such credits) and thus hits low-earning migrants particularly hard. In general, the shift away from general to targeted funding for individuals often means that, because of immigration-related eligibility conditions for means-tested benefits, services such as child care are more expensive and/or impossible to access for many migrants. However, while the effects of the policy on individuals is easy to explain, there has been no attempt to map it onto communities or assess its overall effect on migrants and equalities.

Indeed, significant gaps exist across all areas in assessing inequalities, both as they affect migrants and to understand and enable action on the target equality groups within them (in relation to age, disability, gender, race, religion or belief, and sexual orientation). Some references to gender and race can be found in existing studies, though these are usually in relation to ethnic minority groups rather than by categories of place of birth or nationality. Data on the other groups is much less developed in relation to ethnic minorities and hardly at all in relation to migrants. Gender, race and disability have a more abundant literature produced by academics and the previous equality commissions. However, there is less information to draw on in respect of discriminatory practices towards migrants in relation to age, sexual orientation, and religion or belief.

In particular, immigration policies have until recently not been subjected to a more comprehensive evaluation in terms of these diverse inequalities. The Equality Impact Assessments of tiers 1 and 2 have raised major issues of gender and race discrimination and inequalities. However, these lack rigour and do not take into account discrimination in the UK, especially in the labour market, and the implications

this has for both entry and subsequent extensions of the right to remain in the UK. Age and potential disability discrimination have been raised by stakeholders, but not sexual orientation or religious belief. It is possible that several forms of discrimination, such as age and gender, may interact with each other but this has not been analysed. Equality duties need to be properly applied to immigration legislation, and procedures and appropriate criteria developed (both individual inequalities and their interaction) to measure and monitor the potentially discriminatory outcomes of such legislation both at point of entry and for continuing residence in the UK.

There is evidence of increasing racial harassment against migrants and of direct and indirect discrimination against them. However, current forms of monitoring for race discrimination (ethnic monitoring) entirely ignore discrimination on the grounds of nationality, which is also illegal under the 1976 Act. Changing the guidance on monitoring to include nationality would enable those who are monitoring to develop a more sophisticated understanding of how discrimination takes place in the UK now, and to have a defence against possible actions of discrimination. The context in which this is to be introduced needs to be accompanied with strong recommendations on how such monitoring can be distinguished from eligibility and immigration enquiries.

Tackling discrimination requires good statistical evidence and appropriate monitoring. This means improving the information included in a range of national surveys, such as the British Crime Survey on victims and perpetrators, the General Household Survey, and expanded ethnic and national categories in the forthcoming Census in 2011. Some categories may be of more use in some local authorities than in others, so flexibility needs to be built in.

While the case for better collection of data via surveys is clear, developing more detailed information on migrants and their intentions via regularly collected administrative data might raise serious concerns of privacy and data protection and, more generally, have implications for the expansion of a surveillance state with serious consequences for the lives of individual migrants. As noted above, even monitoring information will be difficult or impossible to collect unless there is a relationship of trust between those providing data and those collecting it – an issue to which attention needs to be paid. It is notable that stereotypes and mistaken assumptions already seem to underlie some policymaking and decisions, and this needs to be tackled in the context of a reasoned and informed debate about the best methods of collecting data and its consequences for all concerned.

The interplay between human rights and discrimination is a relatively recent area of study, and concern in the UK about the treatment of migrants, especially by public

authorities, is certainly at the centre of it. Attention needs to be paid to the issue of migrants who face exploitation and discrimination but are unable to use the legislation because of actual or perceived barriers. Both human rights and anti-discrimination legislation need to be fully extended into the individual home to cover labour relations. The treatment of foreign national prisoners and immigration detainees raises many human rights concerns but also some related to discrimination and community cohesion. The work that migrants do often makes a hidden or indirect contribution to community cohesion, social capital and inclusion. Yet the ready identification of the arrival of larger numbers of migrants as the cause of a lack of cohesion in a neighbourhood, which then needs remedies such as informing and engaging migrants, may actually be a complete reversal of cause and effect: because they are poor and new, migrants often find themselves forced to live in areas where cohesion is poor or non-existent.

The assumption that migrants are the cause of weak cohesion due to their lack of willingness to learn English or to participate actively in British society has led to some of the compulsory elements of civic integration. Current and future proposals for civic integration may have the effect of reinforcing formal and informal discrimination based on nationality and stereotyping. Lengthening the period of qualification for citizenship and requiring 'active citizenship' over and above that required of other citizens may also serve to exclude migrants who are paying taxes and contributing to public services as much as or more than UK-born citizens. Including English as a requirement for permanent residence raises other issues. The current proposals for English for Speakers of Other Languages (ESOL) funding may exclude men and those without children, while local discretion on priorities may lead to discrimination and will need careful monitoring at a national level. The ways in which ESOL is delivered fail to take account of different needs, such as those of people with sensory impairments, people caring for disabled people or children, elderly people and those working non-standard hours.

The notion that migrants do not wish to take up citizenship is contributing to some of the proposed changes heralded in The Path to Citizenship and outlined in the Draft (Partial) Immigration and Citizenship Bill. Yet the take-up of citizenship varies significantly and is low among EU citizens for whom it is likely to continue to be so. Among non-EU migrants from less wealthy countries, it is above average. Proposed changes will make the path to citizenship more rather than less complex, and will leave non-EU migrants with temporary and precarious statuses for longer. Hardening the divide between permanent residence and citizenship fails to take into account the increasingly complex patterns of contemporary migration and mobility.

### **Specific recommendations to tackle discrimination and human rights issues**

- For proper Equality Impact Assessments we highlight the need to:
  - (a) Use the statistical evidence that is increasingly available, in order to assess the impact on the different equality groups.
  - (b) Ensure that all data is properly disaggregated, distinguishing, for example, between EEA and non-EEA migrations.
  - (c) Allow consultations with stakeholders to be carried out well in advance of the proposed change in order to enable them to produce evidence from their own work and experience that can add to this in areas where knowledge is lacking (for instance in relation to sexual orientation and disability).
  - (d) Be aware of the likelihood of producing discriminatory proposals if over-reliant on relatively uninformed focus groups or similar methods.
- The fact that so many highly skilled migrants are working in low-skilled occupations is of concern: it is likely that some of this reflects discrimination in the labour market, which needs further investigation.
- The 'personalisation' of care previously provided by local authorities, voluntary bodies and private providers (which is now increasingly supplied via individual budgets and care workers employed directly in individuals' homes) needs careful and sensitive monitoring because it may lead to widespread discrimination: liaison on this is needed with the Social Care Institute for Excellence and local government bodies.
- The situation of irregular migrants both in employment and in other fields, such as education and health, is of great concern and needs further consideration. Exploitation is now recognised as a form of discrimination but, as the law stands, it is likely that this cannot be challenged by individual workers if they have voided their contracts by working irregularly. The use of human rights legislation to challenge extreme exploitation and exclusion may be possible and should be explored.
- The recent interest by the courts in health access cases may lead to some revision of rules about formal access. There is a need to ensure that any new guidance fully encompasses the need to provide a non-discriminatory service and one that is consonant with human rights.
- The needs of migrants should be incorporated into discussions about appropriate and culturally sensitive social and child care provision.
- Child protection services need to consider effective ways of protecting migrant children that take into account the considerable constraints faced by their parents. It may be necessary to develop resources such as child care specifically for them.
- Changes in immigration legislation should be actively pursued to take account of the needs of women as mothers (who cannot access child tax credits or other measures designed to help the low paid).

- ESOL provision or lack of it is another factor that can exacerbate or create disadvantage. Those affected include people who currently find it difficult to finish ESOL (such as women with children), people for whom there is no appropriate or available provision (such as disabled and older people), and people who cannot access work-based ESOL because they are already excluded from the labour market (such as some women, older and disabled people).
- There is a need to liaise with the Department for Constitutional Affairs, Learning and Skills Council and Ministry of Justice on the effects of legal aid reforms on migrants and the equality target groups among them, for whom the potential risk has been highlighted.
- Monitoring is needed of migrants as victims of crime, and particularly of crimes solely committed against migrants. There is a need to identify and monitor victims and perpetrators, which is not currently fulfilled by the British Crime Survey.
- Since financial exclusion will be included in the General Household Survey for the first time in 2009, it is important to ensure that questions that can identify migrants are included, to lay a baseline against which future changes can be measured.
- There is a need to ensure that new migrants know about the law on discrimination, understand how to recognise it, and learn how to enforce it. This could usefully start by ensuring that it is included in all welcome packs, such as those now being proposed by (Department of) Communities and Local Government.
- Ways need to be considered to use a human rights approach to support those migrants facing exploitation and discrimination but who are unable to use the legislation because of actual or perceived barriers.
- The treatment of foreign national prisoners and immigration detainees raises many human rights concerns and some related to discrimination and community cohesion, and requires further attention.

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## GLOSSARY

A2	The two accession countries which joined the EU in 2007: Bulgaria and Romania
A8	The eight accession countries which joined the EU in 2004: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia
ACPO	Association of Chief Police Officers
BIA	Border & Immigration Agency, now the UK Border Agency
CORE	Continuous Recording System on Social Housing
COSLA	Convention of Scottish Local Authorities
CRE	Commission for Racial Equality
DCA	Department for Constitutional Affairs
DCLG	(Department of) Communities and Local Government
DfES	Department for Education and Skills
ECHR	European Convention on Human Rights
EEA	European Economic Area
EIA	Equality Impact Assessment
EOC	Equal Opportunities Commission
ESOL	English for Speakers of Other Languages
EU	European Union
EU15	the 15 countries which comprised the EU prior to 2004
HSMP	Highly Skilled Migrant Programme
IB	Incapacity Benefit
ICT	Intra-Company Transfer
IDeA	Improvement and Development Agency for Local Government
ILPA	Immigration Lawyers Practitioners Association
ILR	Indefinite leave to remain
IPS	International Passenger Survey
IRC	Immigration Removal Centre
IS	Income Support
JCWI	Joint Council for the Welfare of Immigrants
JSA	Jobseeker's Allowance
LFS	Labour Force Survey
LSC	Learning and Skills Council
LSC	Legal Services Commission
MAC	Migration Advisory Committee

MIF	Migration Impact Forum
MRN	Migrant Rights Network
NARIC	National Academic Recognition Information Centre: the national agency for information about and verification of international qualifications
NIACE	National Institute of Adult Continuing Education
NiNo	National Insurance Number
ODW	Overseas Domestic Workers
OECD	Organisation for Economic Co-operation and Development
PBS	Points-Based System
PLASC	Pupil Level Annual School Census
PRT	Prison Reform Trust
RLMT	Resident Labour Market Test
SBS	Sector-based scheme
SCIE	Social Care Institute for Excellence
SDA	Severe Disablement Allowance
UKBA	UK Border Agency
WRS	Worker Registration Scheme
YMS	Youth Mobility Scheme

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Although migrants are a topic of considerable interest in Britain, hard facts are often lacking. There is no agreement on how we define migrants and a lack of data on equalities and migrants, especially in relation to age, disability, gender, race, religion or belief, or sexual orientation. Their diversity too has implications for the development of immigration and citizenship policies.

This report reviews the available information about inequalities that migrant workers and their families face in Britain today. It sets out the rapidly changing policy context and its implications, analyses recent data, and examines the experiences of migrants themselves.

#### WHAT IS ALREADY KNOWN ON THIS TOPIC:

- Data is available on the numbers of migrants in Britain, their employment and access to housing.
- Small-scale studies have explored their use of public services and experiences of living in Britain.

#### WHAT THIS REPORT ADDS:

- This report presents evidence about migrants' experiences in relation to a range of public services and community relations.
- It includes the analysis of recent statistical data from a range of official sources.
- It also examines the impact of migration policy in relation to gender, age, ethnicity, disability and sexual orientation.